रजिस्ट्री सं० डी-(डी)-72 REGISTERED No. D-(D)-72

भारत का राजपत्र
The Gazette of India

असाधारण
EXTRAORDINARY
भाग II—खण्ड 1
PART II—Section 1
प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं० 50] नई दिल्ली, बृहस्पतिवार, अगस्त 7, 1975/श्रावण 16, 1897
No. 50] NEW DELHI, THURSDAY, AUGUST 7, 1975/SRAVANA 16, 1897

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 7th August, 1975/*Sravana* 16, 1897 (*Saka*)

The following Act of Parliament received the assent of the President on the 7th August, 1975 and is hereby published for general information:—

THE DELHI SALES TAX ACT, 1975

NO. 43 OF 1975

[*7th August,* 1975.]

An Act to consolidate and amend the law relating to the levy of tax on sale of goods in the Union territory of Delhi.

BE it enacted by Parliament in the Twenty-sixth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (*1*) This Act may be called the Delhi Sales Tax Act, 1975. Short title, extent and commencement.

(*2*) It extends to the whole of the Union territory of Delhi.

(*3*) It shall come into force on such date as the Administrator may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,— Definitions.

(*a*) "Administrator" means the Administrator of Delhi appointed by the President under article 239 of the Constitution;

(*b*) "Appellate Tribunal" means the Appellate Tribunal constituted under section 13;

(c) "business" includes—

(i) any trade, commerce or manufacture or any adventure or concern in the nature of trade, commerce or manufacture whether or not such trade, commerce, manufacture, adventure or concern is carried on with a motive to make gain or profit and whether or not any gain or profit accrues from such trade, commerce, manufacture, adventure or concern; and

(ii) any transaction in connection with, or incidental or ancillary to, such trade, commerce, manufacture, adventure or concern;

(d) "Commissioner" means the Commissioner of Sales Tax appointed under sub-section (1) of section 9;

(e) "dealer" means any person who carries on business of selling goods in Delhi and includes—

(i) the Central Government or a State Government carrying on such business;

(ii) an incorporated society (including a co-operative society), club or association which sells or supplies goods, whether or not in the course of business, to its members for cash or for deferred payment or for commission, remuneration or other valuable consideration;

(iii) a manager, factor, broker, commission agent, *del credere* agent, or any mercantile agent, by whatever name called, and whether of the same description as hereinbefore mentioned or not, who sells goods belonging to any principal whether disclosed or not; and

(iv) an auctioneer who sells or auctions goods belonging to any principal, whether disclosed or not and whether the offer of the intending purchaser is accepted by him or by the principal or a nominee of the principal;

(f) "Delhi" means the Union territory of Delhi;

(g) "goods" includes all materials, articles, commodities and all other kinds of movable property, but does not include newspapers, actionable claims, stocks, shares, securities or money;

(h) "manufacture", with its grammatical variations and cognate expressions, means producing, making, extracting, altering, ornamenting, finishing or otherwise processing, treating or adapting any goods, but does not include any such process or mode of manufacture as may be prescribed;

(i) "Official Gazette" means the Delhi Gazette;

(j) "prescribed" means prescribed by rules made under this Act;

(k) "registered" means registered under this Act;

(l) "sale", with its grammatical variations and cognate expressions, means any transfer of property in goods by one person to

anotner for cash or for deferred payment or for any other valuable consideration, and includes—

(*i*) a transfer of goods on hire-purchase or other system of payment by instalments, but does not include a mortgage or hypothecation of, or a charge or pledge on, goods;

(*ii*) supply of goods by a society (including a co-operative society), club, firm or any association to its members for cash or for deferred payment, or for commission, remuneration or other valuable consideration, whether or not in the course of business; and

(*iii*) transfer of goods by an auctioneer referred to in sub-clause (*iv*) of clause (*e*);

(*m*) "sale price" means the amount payable to a dealer as consideration for the sale of any goods, less any sum allowed as cash discount according to the practice normally prevailing in trade, but inclusive of any sum charged for anything done by the dealer in respect of the goods at the time of or before the delivery thereof other than the cost of freight or delivery or the cost of installation in cases where such cost is separately charged;

(*n*) "tax" means sales tax payable under this Act;

(*o*) "turnover" means the aggregate of the amounts of sale price receivable, or, if a dealer so elects, actually received by the dealer, in respect of any sale of goods made during any prescribed period in any year after deducting the amount of sale price, if any, refunded by the dealer to a purchaser in respect of any goods purchased and returned by the purchaser within the prescribed period:

Provided that an election as aforesaid once made shall not be altered except with the permission of the Commissioner and on such terms and conditions as he may think fit to impose;

(*p*) "year" means the financial year.

CHAPTER II

INCIDENCE AND LEVY OF TAX

Incidence of tax.

3. (*1*) Every dealer whose turnover during the year immediately preceding the commencement of this Act exceeds the taxable quantum and every dealer who at the commencement of this Act, is registered or is liable to pay tax under the Central Sales Tax Act, 1956, shall be liable to pay tax under this Act on all sales effected by him on or after such commencement.

74 of 1956.

(*2*) Every dealer to whom sub-section (*1*) does not apply, shall—

(*i*) with effect from the date immediately following the day on which his turnover calculated from the commencement of any year first exceeds within such year the taxable quantum, be liable to pay tax under this Act on all sales effected by him after that day;

(*ii*) if he becomes liable to pay tax under the Central Sales Tax Act, 1956 or is registered as a dealer under the said Act at any time after the commencement of this Act, be liable to pay tax on all sales effected by him or on his behalf within Delhi on or after the date he

74 of 1956.

becomes so liable or is registered under the said Act, whichever is earlier.

(3) Every dealer who has become liable to pay tax under this Act shall continue to be so liable until the expiry of three consecutive years during each of which his turnover has failed to exceed the taxable quantum and such further period after the date of such expiry as may be prescribed and on the expiry of such further period his liability to pay tax shall cease:

Provided that any dealer may, after the expiry of one year following the year in which his turnover has failed to exceed the taxable quantum, apply for the cancellation of his certificate of registration, and on such cancellation, his liability to pay tax shall cease:

Provided further that in respect of any goods purchased by any dealer before the date of such cancellation and remaining unsold or unutilised for the purpose for which they were purchased, he shall be liable to pay so much of tax as would have been payable had he not been registered as a dealer on the date of purchase of such goods.

(4) Every dealer whose liability to pay tax under this Act has ceased under sub-section (3), shall, if his turnover calculated from the commencement of any year again exceeds the taxable quantum on any day within such year, be liable to pay such tax with effect from the date immediately following the day on which his turnover first exceeds the taxable quantum, on all sales effected by him after that day.

(5) Any dealer whose certificate of registration has been cancelled under sub-section (3) of section 20, shall—

(a) if his turnover calculated from the date of cancellation of such certificate exceeds the taxable quantum on any day within the year; or

(b) if his turnover calculated from the commencement of any subsequent year, exceeds the taxable quantum on any day within that year,

be liable to pay tax under this Act with effect from the date immediately following the day on which such turnover again first exceeds the taxable quantum on all sales effected by him after that day of goods imported by him from outside Delhi or manufactured by him in Delhi or purchased by him without payment of tax leviable under this Act.

(6) No dealer who deals exclusively in one or more classes of goods specified in the Third Schedule shall be liable to pay any tax under this Act.

(7) For the purposes of this Act, "taxable quantum" means,—

(a) in relation to any dealer who imports for sale any goods into Delhi *Nil*,

(b) in relation to any dealer who manufactures goods for sale regardless of the value of goods manufactured Rs. 30,000.00,

(c) in relation to any other dealer Rs. 1,00,000.00:

Provided that if the Administrator is of opinion that having regard to the difficulty in maintaining accounts or for other sufficient cause the taxable quantum in respect of any class of dealers falling under clause (*b*) should be increased, the Administrator may, by notification in the Official Gazette, fix in respect of such class of dealers such taxable quantum, not exceeding rupees one lakh, as may be specified in the notification.

Explanation.—For the purposes of computation of taxable quantum under sub-section (7), the turnover of all sales effected by a dealer shall be taken into account irrespective of whether such sales are taxable under this Act or not.

Rate of tax.

4. (*1*) The tax payable by a dealer under this Act shall be levied—

(*a*) in the case of taxable turnover in respect of the goods specified in the First Schedule, at the rate of twelve paise in the rupee;

(*b*) in the case of taxable turnover in respect of the goods specified in the Second Schedule, at such rate not exceeding four paise in the rupee as the Central Government may, from time to time, by notification in the Official Gazette, determine;

(*c*) in the case of taxable turnover in respect of any food or drink served for consumption in a hotel or restaurant or part thereof, with which a cabaret, floor show or similar entertainment is provided therein, at the rate of forty paise in the rupee;

(*d*) in the case of taxable turnover in respect of any other goods, at the rate of seven paise in the rupee:

Provided that the Administrator may with the previous approval of the Central Government and by notification in the Official Gazette, add to, or omit from, or otherwise amend, the First Schedule or the Second Schedule, either retrospectively or prospectively, and thereupon the First Schedule or, as the case may be, the Second Schedule, shall be deemed to be amended accordingly:

Provided further that no such amendment shall be made retrospectively if it would have the effect of prejudicially affecting the interests of any dealer:

Provided also that in respect of any goods or class of goods the Administrator is of opinion that it is expedient in the interest of the general public so to do, he may, with the previous approval of the Central Government and by notification in the Official Gazette, direct that the tax in respect of the taxable turnover of such goods or class of goods shall, subject to such conditions as may be specified, be levied at such modified rate not exceeding the rate applicable under this section, as may be specified in the notification.

(*2*) For the purposes of this Act, "taxable turnover" means that part of a dealer's turnover during the prescribed period in any year which remains after deducting therefrom,—

(*a*) his turnover during that period on—

(*i*) sale of goods, the point of sale at which such goods shall be taxable is specified by the Administrator under section 5 and in respect of which due tax is shown to the satisfaction of the Commissioner to have been paid;

(*ii*) sale of goods declared tax-free under section 7;

(*iii*) sale of goods not liable to tax under section 8;

(*iv*) sale of goods which are proved to the satisfaction of the Commissioner to have been purchased within a period of twelve months prior to the date of registration of the dealer and subjected to tax under the Bengal Finance (Sales Tax) Act, 1941, as it was then in force, or under this Act; Bengal Act VI of 1941.

(*v*) sale to a registered dealer—

(*A*) of goods of the class or classes specified in the certificate of registration of such dealer, as being intended for use by him as raw materials in the manufacture in Delhi of any goods, other than goods specified in the Third Schedule, or newspapers,—

(*1*) for sale by him inside Delhi; or

(*2*) for sale by him in the course of inter-State trade or commerce, being a sale occasioning, or effected by transfer of documents of title to such goods during the movement of such goods from Delhi; or

(*3*) for sale by him in the course of export outside India being a sale occasioning the movement of such goods from Delhi, or a sale effected by transfer of documents of title to such goods effected during the movement of such goods from Delhi, to a place outside India and after the goods have crossed the customs frontiers of India; or

(*B*) of goods of the class or classes specified in the certificate of registration of such dealer as being intended for resale by him in Delhi, or for sale by him in the course of inter-State trade or commerce or in the course of export outside India in the manner specified in sub-item (*2*) or sub-item (*3*) of item (*A*), as the case may be; and

(*C*) of containers or other materials, used for the packing of goods, of the class or classes specified in the certificate of registration of such dealer, other than goods specified in the Third Schedule, intended for sale or resale;

(*vi*) such other sales as are exempt from payment of tax under section 66 or as may be prescribed:

Provided that no deduction in respect of any sale referred to in sub-clause (*iv*) shall be allowed unless the goods, in respect of which deduction is claimed, are proved to have been sold by the dealer within a period of twelve months from the date of his registration and the claim for such deduction is included in the return required to be furnished by the dealer in respect of the said sale:

Provided further that no deduction in respect of any sale referred to in sub-clause (*v*) shall be allowed unless a true declaration duly filled and signed by the registered dealer to whom the goods are sold and containing the prescribed particulars in the prescribed form obtainable from the prescribed authority is furnished in the prescribed manner and within the prescribed time, by the dealer who sells the goods:

Provided also that where any goods are purchased by a registered dealer for any of the purposes mentioned in sub-clause (*v*), but are not so utilised by him, the price of the goods so purchased shall be allowed to be deducted from the turnover of the selling dealer but shall be included in the taxable turnover of the purchasing dealer; and

(*b*) the tax collected by the dealer under this Act as such and shown separately in cash memoranda or bills, as the case may be.

Power of Administrator to prescribe points at which goods may be taxed.

5. Notwithstanding anything contained in this Act, the Administrator may, by notification in the Official Gazette and subject to such conditions, if any, as may be specified therein, specify the point of sale at which any goods or class of goods may be taxed, and on the issue of such notification, the points of sale in relation to any such goods or class of goods other than the point of sale so notified, shall be exempt from payment of tax under this Act:

Provided that no such exemption shall be allowed unless a true declaration duly filled and signed by the registered dealer by whom the goods are sold and containing the prescribed particulars in the prescribed form obtainable from the prescribed authority is furnished in the prescribed manner and within the prescribed time, by the dealer who purchases the goods:

Provided further that the Administrator may, if he is of opinion that it is necessary in the public interest so to do, by notification in the Official Gazette, exempt, subject to such restrictions and conditions as may be specified therein, any dealer or class of dealers from furnishing a declaration under the first proviso.

Burden of poof.

6. The burden of proving that in respect of any sale effected by a dealer he is not liable to pay tax under this Act, shall lie on him.

Tax-free goods.

7. (*1*) No tax shall be payable under this Act on the sale of goods specified in the Third Schedule subject to the conditions and exceptions, if any, set out therein.

(2) The Administrator may, with the previous approval of the Central Government and by notification in the Official Gazette, add to, or omit from, or otherwise amend, the Third Schedule either retrospectively or prospectively, and thereupon the Third Schedule shall be deemed to be amended accordingly:

Provided that no such amendment shall be made retrospectively if it would have the effect of prejudicially affecting the interests of any dealer.

Certain sales and purchases not liable to tax.

8. Nothing in this Act or the rules made thereunder shall be deemed to impose, or authorise the imposition of a tax on any sale or purchase of any goods when such sale or purchase takes place--

(*i*) in the course of inter-State trade or commerce; or

(*ii*) outside Delhi; or

(*iii*) in the course of the import of the goods into, or export of the goods out of, the territory of India.

74 of 1956.

Explanation.--Sections 3, 4 and 5 of the Central Sales Tax Act, 1956 shall apply for determining whether or not a particular sale or purchase

takes place in the manner indicated in clause (*i*), clause (*ii*) or clause (*iii*) of this section.

CHAPTER III

SALES TAX AUTHORITIES AND APPELLATE TRIBUNAL

Sales tax authorities.

9. (*1*) For carrying out the purposes of this Act, the Administrator shall appoint a person to be the Commissioner of Sales Tax.

(*2*) To assist the Commissioner in the execution of his functions under this Act, the Administrator may appoint as many Additional Commissioners of Sales Tax, Sales Tax Officers and such other persons with such designations as the Administrator thinks necessary.

(*3*) The Commissioner shall have jurisdiction over the whole of Delhi and the other persons appointed under sub-section (*2*) shall have jurisdiction over such areas as the Commissioner may specify.

(*4*) The Commissioner and other persons appointed under sub-section (*2*) shall exercise such powers as may be conferred, and perform such duties as may be required, by or under this Act.

Delegation of Commissioner's powers.

10. Subject to such restrictions and conditions as may be prescribed, the Commissioner may, by order in writing, delegate any of his powers under this Act except those under sub-section (*3*) of section 9 and sub-section (*1*) of section 52 to any person appointed under sub-section (*2*) of section 9:

Provided that the powers of the Commissioner under clauses (*i*) to (*vi*) (both inclusive) of sub-section (*3*) of section 41 shall not be delegated to any person lower in rank than that of a Sales Tax Officer, and those under sub-section (*1*) of section 49 shall not be delegated to any person other than an Additional Commissioner of Sales Tax appointed under sub-section (*2*) of section 9.

Power to transfer proceedings.

11. (*1*) The Commissioner may, by order in writing, transfer any proceedings or class of proceedings under any provision of this Act from any person appointed under sub-section (*2*) of section 9 to any other person so appointed whether or not such other person has jurisdiction in respect of the area to which such proceedings or class of proceedings relate, and the Commissioner may likewise transfer any such proceedings (including a proceeding already transferred under this section) from any such person to himself.

(*2*) The person to whom any proceeding is transferred under sub-section (*1*) shall proceed to dispose it of as if it had been initiated by himself.

(*3*) The transfer of a proceeding shall not render necessary the re-issue of any notice already issued before such transfer and the person to whom the proceeding is transferred may, in his discretion, continue it from the stage at which it was left by the person from whom it was transferred.

Explanation.—For the purposes of this section, "proceedings" in relation to any person whose name is specified in any order issued thereunder, means all proceedings under this Act in respect of any year which may be pending on the date of such order or which may have been completed on or before such date, and includes also such proceedings

which may be commenced after the date of such order in respect of any year.

Disputes regarding territorial jurisdiction.

12. (*1*) No person shall be entitled to call in question the jurisdiction of any sales tax authority appointed under section 9, not being an appellate authority, after the expiry of ninety days from the date of receipt by that person of any notice under this Act issued by such sales tax authority.

(*2*) Any objection as to the jurisdiction of any such sales tax authority may be raised within the period aforesaid by submitting a memorandum to the authority concerned who shall refer the question to the Commissioner and the Commissioner shall after giving the person raising the objection a reasonable opportunity of being heard, make an order determining the question and his decision in this behalf shall be final.

Appellate Tribunal.

13. (*1*) The Central Government shall, as soon as may be after the commencement of this Act, constitute an Appellate Tribunal consisting of one or more members, as it thinks fit, to exercise the powers and discharge the functions conferred on the Appellate Tribunal by or under this Act:

Provided that where the Appellate Tribunal consists of one member, that member shall be a person who has held a civil judicial post for at least ten years or who has been a member of the Central Legal Service (not below Grade III) for at least three years or who has been in practice as an advocate for at least ten years, and where the Appellate Tribunal consists of more than one member, one such member shall be a person qualified as aforesaid.

(*2*) Where the number of members of the Appellate Tribunal is more than one, the Central Government shall appoint one of those members to be the Chairman of the Appellate Tribunal.

(*3*) Subject to the provisions of sub-section (*1*), the qualifications and other conditions of service of the member or members constituting the Appellate Tribunal and the period for which such member or members shall hold office, shall be such as may be determined by the Central Government.

(*4*) Any vacancy in the membership of the Appellate Tribunal shall be filled up by the Central Government as soon as practicable.

(*5*) Where the number of members of the Appellate Tribunal is more than one and if the members differ in opinion on any point, the point shall be decided according to the opinion of the majority, if there is a majority, but if the members are equally divided, the decision of the Chairman of the Appellate Tribunal thereon shall be final.

(*6*) Subject to the previous sanction of the Central Government, the Appellate Tribunal shall, for the purpose of regulating its procedure and disposal of its business, make regulations consistent with the provisions of this Act and the rules made thereunder.

(7) The regulations made under sub-section (6) shall be published in the Official Gazette.

(8) The Appellate Tribunal shall, for the purpose of discharging its functions, have all the powers which are vested in the Commissioner under section 42 and any proceeding before the Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196 of the Indian Penal Code and the Appellate Tribunal shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973. 45 of 1860. 2 of 1974.

CHAPTER IV

REGISTRATION, AMENDMENT AND CANCELLATION

Registration.

14. (1) No dealer shall, while being liable to pay tax under section 3, carry on business as a dealer unless he has been registered and possesses a certificate of registration.

(2) Every dealer required by sub-section (1) to be registered shall make an application for registration within such time, in such manner and to such authority, as may be prescribed.

(3) If the said authority is satisfied that the application is in order, it shall, in accordance with such rules as may be prescribed, register the applicant within the prescribed period and grant him a certificate of registration in the prescribed form which shall specify the goods or class of goods for the purposes of sub-clause (*v*) of clause (*a*) of sub-section (2) of section 4:

Provided that if the said authority is of opinion that the application is not in order, it shall, by an order passed within the said period and for reasons to be recorded in writing, reject the application:

Provided further that no goods or class of goods in respect of which the points of sale has been specified by the Administrator under section 5 shall be specified in a certificate of registration, and where a notification is issued under that section subsequent to the grant of any certificate of registration in respect of any goods or class of goods specified in a certificate, the said certificate shall be deemed to have been amended to omit the references to such goods or class of goods.

(4) For the removal of doubts, it is hereby declared that the goods or class of goods to be specified in a certificate of registration granted under sub-section (3) of this section or sub-section (2) of section 16 shall not include goods referred to in sub-clause (*i*) or sub-clause (*ii*) of clause (*a*) of sub-section (2) of section 4.

Voluntary registration.

15. (1) Any dealer, other than a dealer who deals exclusively in one or more classes of goods specified in the Third Schedule, whose turnover during a year exceeds twenty-five thousand rupees may, notwithstanding that he may not be liable to pay tax under section 3, apply for registration under this section.

(2) The provisions of sub-sections (2), (3) and (4) of section 14 shall, as far as may be, apply in relation to registration of dealers under this section.

(3) Every dealer who has been registered under this section shall, for so long as his registration remains in force, be liable to pay tax under this Act.

(4) The registration of a dealer under this section shall be in force for a period of not less than three complete years and shall remain in force thereafter unless cancelled under the provisions of this Act.

Provisional registration.

16. (1) Any person who intends to establish a business in Delhi for the purpose of manufacturing goods of a value exceeding thirty thousand rupees per year, may, notwithstanding that he is not required to be registered under section 14, apply for provisional registration in such manner and to such authority as may be prescribed.

(2) If the said authority, after making such inquiry as it may consider necessary, is satisfied as to the *bona fide* intention of the person making the application, it may, subject to such restrictions and conditions as it may impose, grant a provisional certificate of registration on such person furnishing such security as it may consider necessary and shall specify in such certificate the goods or class of goods for the purposes of sub-clause (*v*) of clause (*a*) of sub-section (2) of section 4.

(3) Every person who has been granted a provisional certificate of registration under this section shall, for so long as such certificate is in force, be liable to pay tax under this Act.

(4) A provisional certificate of registration granted under this section shall be in force for such period as may be specified therein.

(5) The authority prescribed under sub-section (1) may, on application made in this behalf in the prescribed manner and subject to such restrictions and conditions as it may impose, extend, from time to time, the period specified in the provisional certificate of registration.

(6) The provisions of section 18 shall, so far as may be, apply in relation to security required to be furnished under sub-section (2) of this section.

(7) If a person, who has been granted a provisional certificate of registration under this section, fails without sufficient cause to establish a business within the period specified in such certificate or fails to comply with any of the restrictions or conditions subject to which such certificate was granted, he shall be liable to pay a penalty equal to one and a half times the amount of tax which would have been payable had he not been so registered under this section.

Special registration.

17. (1) No dealer shall, while being liable to pay tax under sub-section (5) of section 3, carry on business as a dealer unless he has obtained a special certificate of registration.

(2) Every dealer required to be registered under sub-section (1) shall make an application for registration within such time, in such manner and to such authority, as may be prescribed.

(3) If the said authority is satisfied that the application is in order, it shall, in accordance with such rules as may be prescribed, grant a special certificate of registration to the applicant in the prescribed form:

Provided that the said authority shall not specify in any such certificate the goods or class of goods for the purposes of sub-clause (*v*) of clause (*a*) of sub-section (2) of section 4.

Security from certain class of dealers.

18. (*1*) The Commissioner may, if it appears to him to be necessary so to do for the proper realisation of the tax, composition money or other dues payable under this Act or for the proper custody and use of the forms referred to in the second proviso to clause (*a*) of sub-section (*2*) of section 4, or the first proviso to section 5, as the case may be, impose, for reasons to be recorded in writing as a condition of the grant of the certificate of registration under section 14, section 15 or section 17 to a dealer or of the continuance in effect of such certificate granted to any dealer, a requirement that the dealer shall furnish in the prescribed manner and within such time as may be specified in the order such security or, as the case may be, such additional security as may be so specified, for all or any of the aforesaid purposes.

(*2*) No dealer shall be required to furnish any security or additional security under sub-section (*1*) unless he has been given an opportunity of being heard and the amount of security or additional security that may be required to be furnished, shall,—

(*a*) in the case of a dealer liable to pay tax under sub-section (*2*) of section 3 who has applied for the grant of a certificate of registration under section 14, be such amount as the Commissioner may, having regard to the nature and size of the business of such dealer, determine for the payment of the tax for which the dealer may be or become liable under this Act;

(*b*) in a case where security is to be given for the proper custody and use of the forms referred to in sub-section (*1*), be the amount of tax determined by the Commissioner which is likely to be saved by a dealer by the issue of such forms;

(*c*) in any other case, not exceed the tax payable, in accordance with the estimate of the Commissioner on the taxable turnover of the dealer,

for the year in which such security or additional security is required to be furnished.

(*3*) Where the security or additional security furnished by a dealer is in the form of a surety bond and the surety dies or becomes insolvent, the dealer shall, within thirty days of the occurrence of such event, inform the authority granting the certificate of registration and shall, within ninety days of such occurrence, execute a fresh surety bond.

(*4*) The Commissioner may by order, for good and sufficient cause, and after giving the dealer an opportunity of being heard, forfeit the whole or any part of the security furnished by a dealer.

(*5*) Where, by reason of an order under sub-section (*4*), the security furnished by any dealer is forfeited in whole or is rendered insufficient, he shall furnish a fresh security of the requisite amount or, as the case may be, shall make up the deficiency in such manner and within such period as may be specified in the order.

Amend-ment of certificate of regis-tration.

19. (*1*) The Commissioner may, after considering any information furnished under this Act or otherwise received and after making such inquiry as he may deem fit, amend from time to time any certificate of registration.

(*2*) An amendment of the certificate of registration made under sub-section (*1*) shall take effect:—

(*a*) in the case of a change in the name, ownership or place of business, or opening of a new place of business, from the date of the contingency which necessitates the amendment whether or not information in that behalf is furnished within the time prescribed under section 40;

(*b*) in the case of any addition or modification in the description of any goods or class of goods in the certificate of registration, from the date of the contingency if information in that behalf is furnished within the time prescribed under section 40 and from the date of receipt of request for such addition or modification by the Commissioner, in any other case;

(*c*) in the case of deletion of any goods or class of goods, from the date of order of deletion:

Provided that the Commissioner shall, before amending on his own motion a certificate of registration, give the dealer affected by such amendment a reasonable opportunity of being heard:

Provided further that where in consequence of a change in the ownership of a business the liability to pay tax of a dealer ceases, the amendment of the certificate of registration shall take effect from the date on which information in respect of such change is furnished under section 40.

(*3*) Any amendment of a certificate of registration under this section shall be without prejudice to any liability for tax or penalty imposable, or for any prosecution for an offence under this Act.

(*4*) For the removal of doubts, it is hereby declared that where a registered dealer—

(*a*) effects a change in the name of his business; or

(*b*) is a firm and there is a change in the constitution of the firm without dissolution thereof; or

(*c*) is a trustee of a trust and there is a change in the trustees thereof; or

(*d*) is a guardian of a ward and there is a change in the guardian; or

(*e*) is a Hindu undivided family and the business of such family is converted into a partnership business with all or any of the co-parceners as partners thereof,

then, merely by reason of any of the circumstances aforesaid, it shall not be necessary for the dealer, or the firm who changed constitution or the new trustees, or the new guardian, or as the case may be, the partners of such partnership business, to apply for a fresh certificate of registration

and on information being furnished in the manner required by section 40 the certificate of registration shall be amended.

Cancellation of certificate of registration.

20. (*1*) Where—

(*a*) any business in respect of which a certificate of registration has been granted to a dealer under this Act, is discontinued; or

(*b*) in the case of transfer of business by a dealer, the transferee already holds a certificate of registration under this Act; or

(*c*) a dealer has ceased to be liable to pay tax under this Act,

the Commissioner may cancel the certificate of registration of such dealer or the transferor, as the case may be, from such date as may be specified by him:

Provided that in a case referred to in clause (*a*) or clause (*b*), the certificate of registration shall be deemed to be inoperative with effect from the date of discontinuance or transfer of the business, as the case may be, and in a case referred to in clause (*c*), from the date on which the dealer's liability to pay tax has ceased, notwithstanding the fact that the order of cancellation is passed or that the particulars of the dealer regarding cancellation are published, as required by section 65, in the Official Gazette, after the aforesaid date:

Provided further that where a dealer has failed to furnish information regarding discontinuance of his business as required by section 40, the Commissioner shall before cancelling the certificate from any specified date, publish in the Official Gazette, a notice of his intention so to do for the information of the dealer and shall hear objections, if any, of the dealer before passing the order.

(*2*) A dealer registered under section 15 may, subject to the provisions of sub-section (*4*) of that section, apply in the prescribed manner not later than six months before the end of a year to the Commissioner for cancellation of his certificate of registration and the Commissioner shall, unless the dealer is liable to pay tax under section 3, cancel the certificate of registration accordingly, and such cancellation shall take effect from the end of the year.

(*3*) Notwithstanding anything contained in sub-sections (*1*) and (*2*), the Commissioner may at any time for reasons to be recorded in writing and after giving the dealer an opportunity of being heard, cancel the certificate of registration held by such dealer from such date as the Commissioner may specify in this behalf—

(*a*) if the dealer has failed to pay any tax (including any penalty) due from him under any provisions of this Act; or

(*b*) if the dealer holds or accepts or furnishes or causes to be furnished a declaration for the purposes of sub-clause (*v*) of clause (*a*) of sub-section (*2*) of section 4 or section 5 which he knows or has reason to believe to be false; or

(*c*) if the dealer who has been required to furnish the security under the provisions of section 18 has failed to furnish such security; or

(*d*) if the dealer contravenes or has contravened any of the provisions of this Act; or

Bengal Act VI of 1941.

(*e*) if the dealer has been convicted of an offence under this Act or under the Bengal Finance (Sales Tax) Act, 1941, as then in force in Delhi; or

(*f*) if there is any other reason which in the opinion of the Commissioner warrants such cancellation.

(*4*) (*a*) If an order of cancellation passed under sub-section (*3*) is set aside as a result of an appeal or other proceeding under this Act, the certificate of registration of the dealer shall be restored and he shall be liable to pay tax as if his certificate had not been cancelled.

(*b*) If any dealer whose certificate of registration has been restored under clause (*a*) satisfies the Commissioner that tax has been paid by such dealer on sale of goods made to him during the period his certificate of registration was inoperative which, but for the cancellation of such certificate he would not have paid, then the amount of such tax shall be adjusted or refunded in such manner as may be prescribed.

(*5*) Every dealer who applies for cancellation of his registration shall surrender with his application the certificate of registration granted to him and every dealer whose registration is cancelled otherwise than on the basis of his application shall surrender the certificate of registration within seven days of the date of communication to him of the order of cancellation.

(*6*) If a dealer fails to surrender his certificate of registration as provided in sub-section (*5*), the Commissioner may, by an order in writing and after giving the dealer an opportunity of being heard, direct that the dealer shall pay, by way of penalty, a sum not exceeding twenty-five rupees for every day of default.

(*7*) The cancellation of a certificate of registration shall not affect the liability of any person to pay tax due for any period prior to the date of such cancellation, whether such tax is assessed before the date of cancellation but remains unpaid or is assessed thereafter notwithstanding that he is not liable to pay tax under this Act.

(*8*) Where by any order passed under this Act it is found that any person registered as a dealer ought not to have been so registered, then, notwithstanding anything contained in this Act, such person shall be liable to pay tax for the period commencing with the date of his registration and ending with the date of such order, as if he were a dealer.

CHAPTER V

RETURNS, ASSESSMENT, RECOVERY AND REFUND OF TAX

Periodical payment of tax and filing of returns.

21. (*1*) Tax payable under this Act shall be paid in the manner hereinafter provided at such intervals as may be prescribed.

(*2*) Every registered dealer and every other dealer who may be required so to do by the Commissioner by notice served in the prescribed

manner shall furnish such returns of turnover by such dates and to such authority as may be prescribed.

(3) Every registered dealer required to furnish returns under sub-section (2) shall pay into a Government Treasury or the Reserve Bank of India or in such other manner as may be prescribed, the full amount of tax due from him under this Act according to such return, and shall where such payment is made into a Government Treasury or the Reserve Bank of India furnish along with the return a receipt from such Treasury or Bank showing the payment of such amount.

(4) If any registered dealer discovers any mistake or error in any return furnished by him, he may at any time, before the expiry of three months next following the last date prescribed for furnishing of the return, furnish a revised return, and if the revised return shows a higher amount of tax to be due than was shown in the original return, it shall be accompanied by a receipt showing payment in the manner provided in sub-section (3) of the excess amount.

(5) Every return under this section shall be signed and verified—

(a) in the case of an individual, by the individual himself, and where the individual is absent from India by the individual concerned or by some person duly authorised by him in this behalf and where the individual is mentally incapacitated from attending to his affairs, by his guardian or by any other person competent to act on his behalf;

(b) in the case of a Hindu undivided family, by a *Karta*, and where the *Karta* is absent from India or is mentally incapacitated from attending to his affairs, by any other adult member of such family;

(c) in the case of a company or local authority, by the principal officer thereof;

(d) in the case of a firm, by any partner thereof, not being a minor;

(e) in the case of any other association, by any member of the association or the principal officer thereof; and

(f) in the case of any other person, by that person or by some person competent to act on his behalf.

(6) For the purposes of sub-section (5) of this section and section 59 the expression "principal officer" shall have the meaning assigned to it under clause (35) of section 2 of the Income-tax Act, 1961. 43 of 1961.

Collection of tax only by registered dealers.

22. (1) No person who is not a registered dealer shall collect in respect of any sale of goods by him in Delhi any amount by way of tax under this Act, and no registered dealer shall make any such collection except in accordance with this Act and the rules made thereunder

(2) Notwithstanding anything contained in sub-section (1), a dealer who has been permitted by the Commissioner to make a lump sum payment under section 29 shall not collect any sum by way of tax on the sale of goods if made during the period to which such lump sum payment relates.

Assessment.

23. (*1*) The amount of tax due from a registered dealer shall be assessed separately for each year during which he is liable to pay the tax:

Provided that when such dealer fails to furnish a return relating to any period of a year by the prescribed date, the Commissioner may, if he thinks fit, assess the tax due from such dealer separately for that period or any other period of such year:

Provided further that the Commissioner may, subject to such conditions as may be prescribed and for reasons to be recorded in writing, assess the tax due from any dealer for a part of a year.

(*2*) If the Commissioner is satisfied that the returns furnished in respect of any period are correct and complete, he shall assess the amount of tax due from the dealer on the basis of such returns.

(*3*) (*a*) If the Commissioner is not satisfied that the returns furnished in respect of any period are correct and complete and he thinks it necessary to require the presence of the dealer or the production of further evidence, he shall serve on such dealer in the prescribed manner a notice requiring him on a date and at a place specified therein either to attend and produce or cause to be produced all evidence on which such dealer relies in support of his returns, or to produce such evidence as is specified in the notice.

(*b*) On the date specified in the notice, or as soon as may be thereafter, the Commissioner shall, after considering all the evidences which may be produced, assess the amount of tax due from the dealer.

(*4*) If a dealer fails to comply with the terms of any notice issued under sub-section (*3*), the Commissioner shall assess to the best of his judgment the amount of tax due from him.

(*5*) If a dealer fails to furnish returns in respect of any period by the prescribed date, the Commissioner shall, after giving the dealer a reasonable opportunity of being heard, assess to the best of his judgment the amount of tax, if any, due from him.

(*6*) If, upon information which has come into his possession, the Commissioner is satisfied that any dealer who has been liable to pay tax under this Act in respect of any period, has failed to get himself registered under section 14 or section 17, as the case may be, the Commissioner shall proceed in such manner as may be prescribed to assess to the best of his judgment the amount of tax due from the dealer in respect of such period and all subsequent periods and in making such assessment shall give the dealer a reasonable opportunity of being heard, and the Commissioner may, if he is satisfied that the default was made without reasonable cause, direct that the dealer shall pay, by way of penalty, in addition to the amount of the tax so assessed, a sum not exceeding twice that amount.

(*7*) No assessment under the provisions of sub-sections (*1*) to (*5*) shall be made after the expiry of four years, and no assessment under the provisions of sub-section (*6*) shall be made after the expiry of six

years from the end of the year in respect of which or part of which the tax is assessable:

Provided that where such assessment is made in consequence of or to give effect to, any order of an appellate or revisional authority or of a court, the period of four years or six years, as the case may be, shall be reckoned from the date of such order and further that the provisions of sub-section (*1*) of section 24 regarding time limit for service of notice shall not apply for assessment made under this proviso.

(*8*) Any assessment made under this section shall be without prejudice to any prosecution for an offence under this Act.

Turnover escaping assessment.

24. (*1*) Where after a dealer has been assessed under section 23 for any year or part thereof, the Commissioner has reason to believe that the whole or any part of the turnover of a dealer in respect of any period has escaped assessment to tax or has been under-assessed or has been assessed at a rate lower than the rate at which it is assessable, or any deduction has been wrongly made therefrom, the Commissioner may—

(*a*) within six years from the date of final order of assessment, in a case where the dealer has concealed, omitted or failed to disclose fully the particulars of such turnover; and

(*b*) within four years from the date of final order of assessment, in any other case,

serve a notice on the dealer and after giving the dealer an opportunity of being heard and making such inquiry as he considers necessary, proceed to determine to the best of his judgment, the amount of tax due from the dealer in respect of such turnover, and the provisions of this Act shall, so far as may be, apply accordingly.

Explanation.—For the purposes of this section, production before the Commissioner of account books or other evidence from which material evidence could with due diligence have been discovered by the Commissioner will not necessarily amount to disclosure within the meaning of this section.

(*2*) No order of assessment, reassessment or re-computation shall be made under sub-section (*1*), after—

(*a*) the expiry of four years or, as the case may be, six years as specified in sub-section (*7*) of section 23; or

(*b*) the expiry of one year from the date of service of notice under sub-section (*1*),

whichever is later.

Payment and recovery of tax.

25. (*1*) The amount of tax—

(*a*) due where returns have been furnished without the receipt showing full payment thereof; and

(*b*) assessed, reassessed or re-computed for any period under section 23 or section 24, less the amount if any, already paid by the dealer in respect of the said period,

shall together with any penalty that may be directed to be paid under any of the provisions of this section, sub-section (*6*) of section 23, section 55,

section 56 or section 57 be paid by the dealer or the person liable therefor into a Government Treasury or the Reserve Bank of India or in such other manner as may be prescribed within thirty days from the date of service of notice of demand issued by the Commissioner for this purpose:

Provided that where the Commissioner has reason to believe that it will be detrimental to revenue if the full period of thirty days aforesaid is allowed, he may direct that the sum specified in the notice of demand shall be paid within such period being a period less than the period of thirty days aforesaid, as may be specified by him in that notice.

(2) On an application made before the expiry of the due date under sub-section (1), the Commissioner may, in respect of any particular dealer or person and for reasons to be recorded in writing, extend the time for payment or allow payment by instalments or grant stay, subject to such conditions as he may think fit to impose in the circumstances of the case.

(3) If the amount of tax and penalty, if any, is not paid within the time specified in sub-section (1) or extended under sub-section (2), as the case may be, the dealer or the person liable therefor shall be deemed to be in default in respect of that amount.

(4) In a case where payment by instalments is allowed under sub-section (2) and the dealer or the person liable for such payment commits default in paying any one of the instalments within the time fixed under that sub-section, the dealer or the person aforesaid shall be deemed to be in default in respect of the whole of the amount then outstanding and the other instalment or instalments shall be deemed to have been due on the same date as the instalment actually in default.

(5) When a dealer or a person is in default or is deemed to be in default in making payment of tax and penalty, if any, he shall, in addition to the amount of arrears payable under the foregoing sub-sections, be liable to pay, by way of penalty, an amount which in the case of a continuing default may be increased, from time to time, so however, that the total amount of penalty does not exceed the amount in arrears:

Provided that before levying any such penalty, the dealer or the person aforesaid shall be given a reasonable opportunity of being heard.

(6) Where as a result of any final order the amount of tax and penalty, if any, with respect to the default, in the payment of which the penalty was levied, has been wholly reduced, the penalty levied shall be cancelled and the amount of penalty paid shall be refunded.

(7) Any amount of tax or penalty in respect of which a dealer or person is in default, or any composition money due under section 29 or section 54 which remains unpaid, shall be recoverable as an arrear of land revenue:

Provided that where security, other than in the form of surety bond, has been furnished by a dealer under sub-section (2) of section 16 or section 18, the Commissioner may, for good and sufficient reasons in writing, realise any amount of tax or penalty or composition money remaining unpaid as aforesaid or part thereof by ordering forfeiture of the whole or any part of the security.

Continuation of certain recovery proceedings.

26. Where any notice of demand in respect of any tax or penalty or any other amount payable under this Act (hereafter in this section referred to as "government dues") is served upon any dealer, and any appeal, revision application or other proceeding is filed or taken in respect of such government dues, then,—

(*a*) where such government dues are enhanced in such appeal, revision or other proceeding, the Commissioner shall serve upon the dealer another notice of demand only in respect of the amount by which such government dues are enhanced and any recovery proceedings in relation to such government dues as are covered by the notice of demand served upon him before the disposal of such appeal, revision application or proceeding may, without the service of any fresh notice of demand, be continued from the stage at which such proceedings stood immediately before such disposal;

(*b*) where such government dues are reduced in such appeal, revision or proceeding,—

(*i*) it shall not be necessary for the Commissioner to serve upon the dealer a fresh notice of demand;

(*ii*) the Commissioner shall give intimation of such reduction to him and to the appropriate authority with whom recovery proceedings are pending;

(*iii*) any recovery proceedings initiated on the basis of the notice of demand served upon him before the disposal of such appeal, revision application or proceeding may be continued in relation to the amount so reduced from the stage at which such proceedings stood immediately before such disposal.

Interest.

27. (*1*) If any dealer fails to pay the tax due as required by sub-section (*3*) of section 21, he shall, in addition to the tax (including any penalty) due, be liable to pay simple interest on the amount so due at one per cent. per month from the date immediately following the last date for the submission of the return under sub-section (*2*) of the said section for a period of one month, and at one and a half per cent. per month thereafter for so long as he continues to make default in such payment or till the date of completion of assessment under section 23, whichever is earlier.

(*2*) When a dealer or a person is in default or is deemed to be in default in making the payment of tax, he shall, in addition to the amounts payable under section 23 or section 24, be liable to pay simple interest on such amount at one per cent. per month from the date of such default for a period of one month, and at one and a half per cent. per month thereafter for so long as he continues to make default in the payment of the said amount.

(*3*) Where as a result of any final order the amount of tax (including any penalty) due or in default is wholly reduced, the amount of interest, if any, paid shall be refunded, or if such amount is varied, the interest due shall be calculated accordingly:

Provided that where any amount of tax payable is enhanced by any such order, interest shall be payable on the amount by which the tax is

enhanced after the expiry of a period of three months from the date of the order:

Provided further that where the realisation of any amount remains stayed by the order of any court or authority and such order is subsequently vacated, interest shall be payable also for any period during which such order remained in operation.

(4) The interest payable under this section shall be deemed to be tax due under this Act.

Special mode of recovery.

28. (1) Notwithstanding anything contained in any law or contract to the contrary, the Commissioner may, at any time or from time to time, by notice in writing, a copy of which shall be forwarded to the dealer at his last known address, require—

(a) any person from whom any amount of money is due, or may become due, to a dealer on whom notice has been served under sub-section (1) of section 25, or

(b) any person who holds or may subsequently hold money for or on account of such dealer,

to pay to the Commissioner, either forthwith upon the money becoming due or being held or within the time specified in the first mentioned notice (but not before the money becomes due or is held as aforesaid) so much of the money as is sufficient to pay the amount due by the dealer in respect of the arrears of tax and penalty under this Act, or the whole of the money when it is equal to or less than that amount.

Explanation.—For the purposes of this sub-section, the amount of money due to a dealer from, or money held for or on account of a dealer by, any person, shall be calculated by the Commissioner after deducting therefrom such claims (if any) lawfully subsisting, as may have fallen due for payment by such dealer to such person.

(2) The Commissioner may amend or revoke any such notice or extend the time for making any payment in pursuance of the notice.

(3) Any person making any payment in compliance with a notice under this section shall be deemed to have made the payment under the authority of the dealer, and the receipt thereof by the Commissioner shall constitute a good and sufficient discharge of the liability of such person to the extent of the amount specified in the receipt.

(4) Any person discharging any liability to the dealer after receipt of the notice referred to in this section, shall be personally liable to the Commissioner to the extent of the liability discharged or to the extent of the liability of the dealer for tax and penalty, whichever is less.

(5) Where a person to whom a notice under this section is sent, proves to the satisfaction of the Commissioner that the sum demanded or any part thereof is not due to the dealer or that he does not hold any money for or on account of the dealer, then, nothing contained in this

section shall be deemed to require such person to pay any such sum or part thereof, as the case may be, to the Commissioner.

(6) Any amount of money which the aforesaid person is required to pay to the Commissioner, or for which he is personally liable to the Commissioner under this section shall, if it remains unpaid, be recoverable as an arrear of land revenue.

(7) The Commissioner may apply to the court in whose custody there is money belonging to the dealer for payment to him of the entire amount of such money or if it is more than the tax and penalty, if any, due, an amount sufficient to discharge such tax and the penalty.

Lump sum payment of tax.

29. The Commissioner may, in such circumstances and subject to such conditions as may be prescribed, permit any dealer to pay in lieu of the amount of tax payable by him under the provisions of this Act, a lump sum determined in the prescribed manner, by way of composition.

Refund.

30. (1) If any person satisfies the Commissioner that the amount of tax paid by him or on his behalf for any year exceeds the amount payable by him under this Act for that year, he shall, on making a claim in the prescribed form and verified in the prescribed manner, be entitled to refund of the excess either by cash payment or at his option by deduction of such excess from the amount of tax and penalty (if any) due in respect of any other period:

Provided that the Commissioner shall first apply such excess towards the recovery of any amount in respect of which a notice under section 25 has been issued and shall then refund the balance, if any.

Explanation.—When no assessment is made, the due tax paid under section 21 by the dealer shall be deemed to be the tax payable under this Act.

(2) Where on account of death, incapacity, insolvency, liquidation or other cause a person is unable to claim or receive any refund due to him, his legal representative or the trustee or guardian or receiver, as the case may be, shall be entitled to claim or receive such refund for the benefit of such person or his estate.

(3) No claim for refund under sub-section (1) shall be allowed unless it is made within a period of twelve months from the date of the order giving rise to a claim for such refund, and the Commissioner shall, except as otherwise provided in this Act, refund any amount which becomes due to a dealer in the prescribed manner:

Provided that the Commissioner may allow a claim for refund to be made after the expiry of the said period but not later than twelve months from such expiry, if he is satisfied that there was sufficient cause for not making such claim within that period.

(4) Where an amount required to be refunded by the Commissioner to any person as a result of any order passed in appeal or other proceedings under this Act is not so refunded to him within ninety days from the date of his claim under sub-section (3), such person shall be entitled to be paid simple interest on such amount at one per cent. per month from the date immediately following the expiry of the period of ninety days for a period

of one month and at one and a half per cent. per month, thereafter for so long as the refund is not made.

Explanation.—If the delay in making the refund during any of the periods referred to in this sub-section is attributable to the person making the claim, whether wholly or in part, the period of the delay attributable to him shall be excluded from the period for which interest is payable.

(5) Where any question arises as to the period to be excluded for the purposes of calculation of interest under sub-section (4), such question shall be determined by the Commissioner whose decision thereon shall be final.

(6) Where an order giving rise to a refund is the subject matter of an appeal or further proceeding or where any other proceeding under this Act is pending and the Commissioner is of opinion that the grant of the refund is likely to adversely affect the revenue, the Commissioner may withhold the refund till such time as the Commissioner may determine.

(7) In any claim for refund, it shall not be open to the dealer to question the correctness of any assessment or other matter decided which has become final and conclusive or ask for a review of the same and the dealer shall not be entitled to any relief on such claim except refund of tax wrongly paid or paid in excess.

(8) Any tax levied and collected under this Act in respect of sale in Delhi of any declared goods which are subsequently sold in the course of inter-State trade or commerce, shall be reimbursed to the person making the sale in the course of inter-State trade or commerce, in such manner and subject to such conditions as may be prescribed.

Explanation.—For the purpose of sub-section (8), "declared goods" means goods declared by section 14 of the Central Sales Tax Act, 1956 to be of special importance in inter-State trade or commerce.

74 of 1956.

Set-off.

31. (1) Where the Commissioner is satisfied that delay beyond the prescribed period has occurred in the grant of a certificate of registration to a dealer and that such delay was not wholly due to any fault, omission or negligence on the part of the dealer, the amount of tax, if any, paid on sales of goods made to such dealer which would not have been payable but for the delay in the grant of a certificate of registration as aforesaid, shall be adjusted against any amount payable by the dealer under this Act:

Provided that—

(a) in case the amount of tax so paid by the dealer exceeds his liability to pay any amount under this Act, the adjustment shall be made to the extent of such liability and the balance shall be refunded to the dealer; and

(b) in case there is no liability to pay any amount under this Act, the entire amount of tax paid shall be refunded to the dealer:

Provided further that the dealer shall not be entitled to any such adjustment or refund in respect of the goods which are not specified in the certificate of registration granted to him.

(2) No application for adjustment or refund of tax under this section shall be entertained unless it is made within three months from the date on which a certificate of registration is granted to the dealer.

CHAPTER VI

LIABILITY IN SPECIAL CASES

Liability in case of transfer of business.

32. (*1*) Where a dealer, liable to pay tax under this Act, transfers his business in whole or in part, by sale, gift, lease, leave or licence, hire or in any other manner whatsoever, the dealer and the person to whom the business is so transferred shall jointly and severally be liable to pay the tax (including any penalty) due from the dealer up to the time of such transfer, whether such tax (including any penalty) has been assessed before such transfer, but has remained unpaid or is assessed thereafter.

(*2*) Where the transferee or the lessee of a business referred to in sub-section (*1*) carries on such business either in his own name or in some other name, he shall be liable to pay tax on the sale of goods effected by him with effect from the date of such transfer and shall, if he is an existing dealer, apply within the prescribed time for amendment of his certificate of registration.

Liability in case of company in liquidation.

33. (*1*) Every person—

(*a*) who is a liquidator of any company which is being wound up whether under the orders of a court or otherwise; or

(*b*) who has been appointed the receiver of any assets of a company (hereinafter referred to as the "liquidator"),

shall, within thirty days after he has become such liquidator, give notice of his appointment as such to the Commissioner.

(*2*) The Commissioner shall, after making such inquiries or calling for such information as he may deem fit, notify the liquidator within three months from the date on which he received notice of the appointment of the liquidator, the amount which, in the opinion of the Commissioner, would be sufficient to provide for any tax (including any penalty) which is then, or is likely thereafter to become, payable by the company.

(*3*) The liquidator shall not part with any of the assets of the company or the properties in his hand until he has been notified by the Commissioner under sub-section (*2*) and on being so notified, the liquidator shall set aside an amount equal to the amount notified and, until he so sets aside such amount, he shall not part with any of the assets of the company or the properties in his hand:

Provided that nothing contained in this sub-section shall debar the liquidator from parting with such assets or properties in compliance with any order of a court or for the purpose of the payment of the tax and penalty, if any, payable by the company under this Act or for making any payment to secured creditors whose debts are entitled under law to priority of payment over debts due to Government on the date of liquidation or for meeting such costs and expenses of the winding up of the company as are in the opinion of the Commissioner reasonable.

(*4*) If the liquidator fails to give notice in accordance with sub-section (*1*) or fails to set aside the amount as required by sub-section (*3*) or parts with any assets of the company or the properties in his hand in contravention of the provisions of that sub-section, he shall be personally liable for

the payment of the tax and penalty, if any, which the company would be liable to pay under this Act:

Provided that if the amount of any tax and penalty, if any, payable by the company is notified under sub-section (2), the personal liability of the liquidator under this sub-section shall be to the extent of such amount.

(5) Where there are more liquidators than one, the obligations and liabilities attached to the liquidator under this section shall attach to all the liquidators jointly and severally.

(6) When any private company is wound up and any tax and penalty, if any, assessed under this Act on the company for any period, whether before or in the course of or after its liquidation, cannot be recovered, then every person who was a director of the private company at any time during the period for which the tax is due, shall be jointly and severally liable for the payment of such tax and penalty, if any, unless he proves to the satisfaction of the Commissioner that non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company.

(7) The provisions of this section shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force.

(8) For the purposes of this section, the expressions "company" and "private company" shall have the meanings respectively assigned to them under clauses (*i*) and (*iii*) of sub-section (1) of section 3 of the Companies Act, 1956.

1 of 1956.

Liability of partners of firm to pay tax.

34. Notwithstanding any contract to the contrary, where any firm is liable to pay any tax (including any penalty) under this Act, the firm and each of the partners of the firm shall be jointly and severally liable for such payment:

Provided that where any such partner retires from the firm, he shall intimate the date of his retirement to the Commissioner by a notice in that behalf in writing and he shall be liable to pay tax (including any penalty) remaining unpaid at the time of his retirement and any tax (including any penalty) due up to the date of his retirement though unassessed on that date:

Provided further that if no such intimation is given within fifteen days from the date of retirement, the liability of the partner under the first proviso shall continue until the date on which such intimation is received by the Commissioner.

Liability of guardians, trustees, etc.

35. Where the business in respect of which tax is payable under this Act is carried on by, or is in charge of any guardian, trustee or agent of a minor or other incapacitated person on his behalf and for the benefit of such minor or other incapacitated person, the tax (including any penalty) shall be levied upon and recoverable from such guardian, trustee or agent, as the case may be, in like manner and to the same extent as it would be assessed upon and recoverable from any such minor or other incapacitated person, if he were of full age and of sound mind and if he were conducting the business himself, and all the provisions of this Act shall, so far as may be, apply accordingly.

Liability of Court of Wards, etc.

36. Where the estate or any portion of the estate of a dealer owning a business in respect of which tax is payable under this Act is under the control of the Court of Wards, the Administrator-General, the Official Trustee or any receiver or manager (including any person, whatever be his designation, who in fact manages the business) appointed by or under any order of a court, the tax (including any penalty) shall be levied upon and be recoverable from such Court of Wards, Administrator-General, Official Trustee, receiver or manager in like manner and to the same extent as it would be assessable upon and be recoverable from the dealer if he were conducting the business himself; and all the provisions of this Act shall, so far as may be, apply accordingly.

Liability in other cases.

37. (1) Where a dealer is a firm or an association of persons or a Hindu undivided family, and such firm, association or family has discontinued business—

(a) the tax payable under this Act, by such firm, association or family up to the date of such discontinuance may be assessed as if no such discontinuance had taken place; and

(b) every person who was at the time of such discontinuance a partner of such firm, or a member of such association or family, shall, notwithstanding such discontinuance, be liable jointly and severally for the payment of tax assessed and penalty imposed and payable by such firm, association or family, whether such tax (including any penalty) has been assessed prior to or after such discontinuance, and subject as aforesaid, the provisions of this Act shall, so far as may be, apply as if every such person or partner or member were himself a dealer:

Provided that where the partner of a firm liable to pay such tax (including any penalty) dies, the provisions of sub-section (4) shall, so far as may be, apply.

(2) Where a change has occurred in the constitution of a firm or association, the partners or members of the firm or association as it existed before and as it exists after its re-constitution, shall, without prejudice to the provisions of section 34, jointly and severally be liable to pay any tax (including any penalty) due from such firm or association for any period before its re-constitution.

(3) The provisions of sub-section (1) shall, so far as may be, apply where the dealer, being a firm or association of persons, is dissolved or where the dealer, being a Hindu undivided family, has effected partition with respect to the business carried on by it and accordingly references in that sub-section to discontinuance shall be construed as references to dissolution or, as the case may be, to partition.

(4) Where a dealer liable to pay tax under this Act dies, then—

(a) if the business carried on by the dealer is continued after his death by his legal representative or any other person, such legal representative or other person, shall be liable to pay the tax (including any penalty) due from the dealer under this Act, whether such tax (including any penalty) has been assessed before his death but has remained unpaid, or is assessed after his death;

(b) if the business carried on by the dealer is discontinued after his death, his legal representative shall be liable to pay out of the

estate of the deceased, to the extent the estate is capable of meeting the charge, the tax (including any penalty) due from the dealer under this Act, whether such tax (including any penalty) has been assessed before his death but has remained unpaid, or is assessed after his death,

and the provisions of this Act shall, so far as may be, apply to such legal representative or other person as if he were the dealer himself.

Explanation.—For the purposes of this sub-section and section 40, "legal representative" has the meaning assigned to it in clause (*11*) of section 2 of the Code of Civil Procedure, 1908.

5 of 1908.

CHAPTER VII

LIABILITY TO PRODUCE ACCOUNTS AND SUPPLY OF INFORMATION

Accounts.

38. (*1*) Every dealer liable to pay tax under this Act, and every other dealer on whom a notice has been served to furnish returns under sub-section (*2*) of section 21 shall keep at his place of business a true account of the value of goods bought and sold by him, and if the Commissioner considers that such account is not sufficiently clear and intelligible to enable him to make a proper check of the returns referred to in that sub-section, he may require such dealer by notice in writing to keep such accounts (including records of purchases and sales) as may be specified therein.

(*2*) The Commissioner may, by notification in the Official Gazette, direct any class of registered dealers generally to keep such accounts (including records of purchases and sales) as may be specified in the notification subject to such conditions and restrictions as may be prescribed.

Memoranda of sales.

39. If a registered dealer—

(*a*) sells goods to another registered dealer, or

(*b*) makes sales in the course of inter-State trade or commerce, or

(*c*) sells any goods exceeding ten rupees in value in any one transaction to any other person,

he shall issue to the purchaser a bill or cash memorandum serially numbered, signed and dated by him or his servant, manager or agent and showing therein his name and address and such other particulars as may be prescribed and he shall keep a duplicate or copy of such bill or cash memorandum duly signed and dated and preserve it for a period of not less than five years from the end of the year unless any proceedings in respect of that year are pending in which case they shall be preserved till the final decision in those proceedings:

Provided that if in respect of any goods or class of goods or any dealers or class of dealers, the Administrator is of opinion that it is not practicable to issue any bills or cash memoranda for sale of goods exceeding ten rupees in value in any one transaction to any other person, he may, by notification in the Official Gazette,—

(*i*) specify such amount exceeding ten rupees in value as the amount for the issue of such bills or cash memoranda;

(*ii*) exempt such goods or class of goods or dealers or class of dealers from the operation of this section.

Information to be furnished regarding change of business.

40. If any dealer to whom the provisions of sub-section (2) of section 21 apply—

(*a*) sells or otherwise disposes of his business or any part of his business or any place of business, or effects or comes to know of any other change in the ownership of the business; or

(*b*) discontinues his business or changes his place of business or warehouse, or opens a new place of business; or

(*c*) changes the name or nature of his business, or effects any change in the goods or class of goods in which he carries on his business and which is or are specified in his certificate of registration; or

(*d*) enters into partnership or other association in regard to his business,

he shall, within the prescribed time, inform the prescribed authority accordingly, and if any such dealer dies, his legal representative shall in like manner inform the said authority.

Production and inspection of accounts and documents and search of premises.

41. (*1*) The Commissioner may, subject to such conditions as may be prescribed, require any dealer—

(*a*) to produce before him such books of accounts, registers or documents,

(*b*) to furnish such information relating to the stock of goods of, or purchases, sales or deliveries of goods by, the dealer or any other information relating to his business,

as may be deemed necessary, for the purposes of this Act.

(*2*) (*a*) All books of accounts, registers and documents relating to the stock of goods of, or purchases, sales and deliveries of goods by, any dealer, and

(*b*) All goods kept in any place of business or warehouse of any dealer,

shall at all reasonable times be open to inspection by the Commissioner and the Commissioner may take or cause to be taken such copies or extracts of the said books of accounts, registers or documents and such inventory of the goods found as appear to him necessary for the purposes of this Act.

(*3*) Where the Commissioner, upon information in his possession or otherwise, has reasonable grounds to believe that—

(*a*) any person to whom a notice under this Act was issued to produce, or cause to be produced, any books of accounts or other documents has omitted or failed to produce or caused to be produced such books of accounts or other documents, as required by such notice, or

(*b*) any person to whom a notice as aforesaid has been or might be issued, will not, or would not produce or cause to be produced any books of accounts or other documents which will be useful for, or relevant to, any proceedings under the Bengal Finance (Sales Tax) Act, 1941, as it was in force in Delhi, or under this Act, or

Bengal Act VI of 1941.

(*c*) books of accounts, registers or documents of any dealer may be destroyed, mutilated, altered falsified or secreted or any sales by that dealer have been or may be suppressed with a view to evade or

Bengal Act VI of 1941.

attempt to evade payment of tax due under the Bengal Finance (Sales Tax) Act, 1941, as it was in force in Delhi, or under this Act, the Commissioner or any other person appointed under sub-section (2) of section 9, if so authorised by the Commissioner may,—

(i) enter and search any building or place where he has reason to suspect that books of accounts and other documents or the sale proceeds are kept;

(ii) break open the lock of any door, box, locker, safe, almirah or other receptacle for exercising the powers conferred by clause (i) where the keys thereof are not available;

(iii) seize any such books of accounts or other documents or any inventory of goods as appear to him necessary for the purposes of this Act;

(iv) place marks of identification on any books of accounts or other documents or make or cause to be made extracts or copies therefrom;

(v) make a note or any inventory of any such money or goods found as a result of such search;

(vi) seal the premises including the office, shop, godown, box, locker, safe, almirah or other receptacle if the owner or the person in occupation or in charge of such office, shop, godown, box, locker, safe, almirah or other receptacle leaves the place or is not available or fails or refuses to open it when called upon to do so.

(4) The Commissioner may requisition the services of any police officer or any public servant, or of both to assist him for all or any of the purposes specified in sub-section (3).

(5) Where the Commissioner seizes any books of accounts or other documents, he shall give the dealer or the person present on his behalf, as the case may be, a receipt for the same and obtain acknowledgment of the receipt so given to him:

Provided that if the dealer or person from whose custody the books of accounts or other documents are seized refuses to give an acknowledgment, the Commissioner may leave the receipt at the premises and record this fact:

Provided further that the dealer or person aforesaid may file objections before the Commissioner against such search, seizure or inventory within seven days of such search or seizure or inventory.

(6) The Commissioner shall keep in his custody the books of accounts, registers or documents seized under sub-section (3) for such period not later than the completion of all the proceedings under this Act in respect of years for which those books of accounts, registers or documents are relevant, as he considers necessary, and thereafter shall return the same to the dealer or any other person from whose custody or power they were seized:

Provided that the Commissioner may, before returning such books of accounts or other documents as aforesaid, place or cause to be placed such marks of identification thereon as appear to him to be necessary:

Provided further that the Commissioner may, before returning the books of accounts and other documents, require that the dealer or the person, as the case may be, shall give written undertaking that the books of accounts and other documents shall be presented whenever required by any competent authority for any proceedings under this Act.

(7) Save as otherwise provided in this section, every search or seizure made under this section shall be carried on in accordance with the provisions of the Code of Criminal Procedure, 1973, relating to searches or seizures made under that Code. 2 of 1974.

(8) The Commissioner may, for the purposes of this Act,—

(a) require any person, including a banking company, post office or any officer thereof, to furnish information in relation to such points or matters or to furnish statements of accounts and affairs verified in the manner specified by him, giving information in relation to such points or matters as in his opinion will be useful for, or relevant to, any proceeding under this Act;

(b) require any person—

(i) who transports or holds in custody, for delivery to or on behalf of any dealer any goods to give any information likely to be in his possession in respect of such goods or to permit inspection thereof, as the case may be;

(ii) who maintains or has in his possession any books of accounts, registers or documents relating to the business of a dealer to produce such books of accounts, registers or documents for inspection.

Power of Commissioner and other authorities to take evidence on oath, etc.

42. (1) The Commissioner or any person appointed under sub-section (2) of section 9 to assist him shall, for the purposes of this Act, have the same powers as are vested in a court under the Code of Civil Procedure, 1908, when trying a suit, in respect of the following matters, namely:— 5 of 1908.

(a) enforcing the attendance of any person and examining him on oath or affirmation;

(b) compelling the production of accounts and documents; and

(c) issuing commissions for the examination of witnesses,

and any proceeding under this Act before the Commissioner or any person appointed under sub-section (2) of section 9 to assist him shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and for the purposes of section 196 of the Indian Penal Code. 45 of 1860.

(2) Subject to any rules made in this behalf, any authority referred to in sub-section (1) may impound and retain in its custody for such period as it thinks fit, any books of accounts or other documents produced before it in any proceedings under this Act:

Provided that a person appointed under sub-section (2) of section 9 to assist the Commissioner shall not—

(a) impound any books of accounts or other documents without recording his reasons for so doing; or

(b) retain in his custody any such books or documents for a period exceeding thirty days,

without obtaining the approval of the Commissioner therefor.

CHAPTER VIII

APPEALS, REFERENCE AND REVISION

Appeals.

43. (*1*) Any person aggrieved by any order, not being an order mentioned in section 44 passed under this Act or the rules made thereunder, may appeal to the prescribed authority:

Provided that where an order, not being an order mentioned in section 44 or made under section 47 is passed by the Commissioner, the person aggrieved may appeal therefrom to the Appellate Tribunal.

(*2*) The Commissioner or any person aggrieved by an order passed in appeal by the prescribed authority may appeal to the Appellate Tribunal against such order.

(*3*) Subject to the provisions of section 62, no appeal shall be entertained unless it is filed within sixty days from the date of service of the order appealed against.

(*4*) Every appeal filed under this section shall be in the prescribed form and shall be verified in the prescribed manner and in the case of an appeal to the Appellate Tribunal filed by any person other than the Commissioner, shall be accompanied by a fee of fifty rupees.

(5) No appeal against an order of assessment with or without penalty or against an order imposing the penalty shall be entertained by an appellate authority unless such appeal is accompanied by a satisfactory proof of the payment of tax with or without penalty or, as the case may be, of the payment of the penalty in respect of which the appeal has been preferred:

Provided that the appellate authority may, if it thinks fit, for reasons to be recorded in writing, entertain an appeal against such order—

(*a*) without payment of the tax and penalty, if any, or as the case may be, of the penalty, on the appellant furnishing in the prescribed manner security for such amount as it may direct, or

(*b*) on proof of payment of such smaller sum, with or without security for such amount of tax or penalty which remains unpaid, as it may direct:

Provided further that no appeal shall be entertained by the appellate authority unless it is satisfied that such amount of tax as the appellant may admit to be due from him has been paid.

(*6*) The appellate authority may, after giving the appellant an opportunity of being heard,—

(*a*) confirm, reduce, enhance or annul the assessment (including any penalty imposed), or

(*b*) set aside the assessment (including any penalty imposed) and direct the assessing authority to make a fresh assessment after such further inquiry as may be directed, or

(*c*) pass such order as it may think fit.

(*7*) Save as provided in section 45, an order passed by the Appellate Tribunal on appeal shall be final.

Non-appealable orders.

44. No appeal and no application for revision shall lie against—

(*a*) a notice issued under this Act calling upon a dealer for assessment or asking a dealer to show cause as to why he should not be prosecuted for an offence under this Act; or

(*b*) an order pertaining to the seizure or retention of books of accounts, registers and other documents; or

(*c*) an order sanctioning prosecution under this Act; or

(*d*) an interim order passed in the course of any proceedings under this Act.

Statement of case to the High Court.

45. (*1*) Within sixty days from the date of an order passed by the Appellate Tribunal under sub-section (*6*) of section 43, the dealer or the Commissioner may, by application in writing, and accompanied, where the application is made by a dealer, by a fee of fifty rupees, require the Appellate Tribunal to refer to the High Court any question of law arising out of such order, and, subject to the other provisions contained in this section, the Appellate Tribunal shall, within one hundred and twenty days of the receipt of such application, draw up a statement of the case and refer it to the High Court:

Provided that the Appellate Tribunal may, if it is satisfied that the dealer or the Commissioner was prevented by sufficient cause from presenting the application within the period hereinbefore specified, allow it to be presented within a further period not exceeding thirty days.

(*2*) If the Appellate Tribunal refuses to state the case which it has been required to do, on the ground that no question of law arises, the dealer or the Commissioner, as the case may be, may, within thirty days of the communication of such refusal either withdraw his application (and if he does so, any fee paid shall be refunded), or apply to the High Court against such refusal.

(*3*) If upon receipt of an application under sub-section (*2*), the High Court is not satisfied as to the correctness of the decision of the Appellate Tribunal, it may require the Appellate Tribunal to state the case and refer it, and on receipt of such requisition, the Appellate Tribunal shall state the case and refer it accordingly.

(*4*) If the High Court is not satisfied that the statements in a case referred to it are sufficient to enable it to determine the questions raised thereby, the Court may refer the case back to the Appellate Tribunal for the purpose of making such additions thereto or alterations therein as it may direct in that behalf.

(*5*) The High Court upon the hearing of any such case shall decide the question of law raised thereby, and shall deliver its judgment thereon containing the grounds on which such decision is founded, and shall send to the Appellate Tribunal a copy of such judgment under the seal of the Court and the signature of the Registrar, and the Appellate Tribunal shall dispose of the case accordingly.

(*6*) Where a reference is made to the High Court under this section, the costs [which shall not include the fee referred to in sub-section (*1*)] shall be in the discretion of the Court.

(7) The payment of the amount of tax and penalty (if any) due in accordance with the order of the Appellate Tribunal in respect of which an application has been made under sub-section (*1*) shall not be stayed pending the disposal of such application or any reference made in consequence thereof but if such amount is reduced as a result of such reference, the excess tax paid shall be refunded in accordance with the provisions of section 30.

Revision of orders prejudicial to revenue.

46. The Commissioner may call for and examine the record of any proceeding under this Act and if he considers that any order passed therein by any person appointed under sub-section (*2*) of section 9 to assist him, is erroneous in so far as it is prejudicial to the interests of revenue, he may, after giving the dealer an opportunity of being heard and after making or causing to be made such inquiry as he deems necessary, pass such order thereon as the circumstances of the case justify, including an order enhancing or modifying the assessment and penalty (if any) imposed or cancelling the assessment and penalty (if any) imposed and directing a fresh assessment:

Provided that a final order under this section shall be made before the expiry of five years from the date of the order sought to be revised.

Revision of other orders.

47. (*1*) In the case of any order, other than an order referred to in section 44 or to which section 46 applies, passed by a person appointed under sub-section (*2*) of section 9 to assist him, the Commissioner may, either on his own motion or on an application filed in accordance with such rules as may be prescribed, call for the record of any proceeding under this Act in which any such order has been passed and may make such inquiry or cause such inquiry to be made and, subject to the provisions of this Act, may pass such orders thereon, not being an order prejudicial to the dealer, as he thinks fit:

Provided that the Commissioner shall not revise any order under this sub-section,—

(*a*) where an appeal against the order is pending before the appellate authority under section 43; or

(*b*) where, if such appeal lies, the time within which it may be filed has not expired; or

(*c*) where in the case of the second appeal, the dealer has not waived his right of appeal.

(*2*) The Commissioner shall not on his own motion revise any order under this section after the expiry of two years from the date of the order sought to be revised.

(*3*) In the case of an application for revision under this section by the dealer, the application shall be made within two years from the date on which the order in question was communicated to him or the date on which he otherwise comes to know of it, whichever is earlier.

Rectification of mistakes.

48. (*1*) The Commissioner or any person appointed under sub-section (*2*) of section 9 to assist him, may at any time within two years from the date of any order passed by the Commissioner or by that person, as the case may be, on his own motion, rectify any mistake apparent from the record, and shall within a like period, rectify any such mistake which has been brought to his notice by any person affected by such order:

Provided that no such rectification shall be made, if it has the effect of enhancing the tax or reducing the amount of refund, unless the Commissioner or the person appointed under sub-section (2) of section 9 to assist him, as the case may be, has given notice in writing to the person likely to be affected by the order of his intention to do so and has allowed such person a reasonable opportunity of being heard.

(2) The provisions of sub-section (1) shall apply to the rectification of a mistake by an appellate authority under section 43 as they apply to the rectification of a mistake by the Commissioner.

(3) Where any matter has been considered and decided in any proceeding by way of appeal or revision relating to an order referred to in sub-section (1) or sub-section (2), the authority passing such order may, notwithstanding anything contained in any law for the time being in force, amend the order under sub-section (1) or sub-section (2), as the case may be, in relation to any matter other than the matter which has been so considered and decided.

(4) Where any such rectification has the effect of reducing the amount of the tax or penalty, the Commissioner shall, in the prescribed manner, refund any amount due to such person.

(5) Where any such rectification has the effect of enhancing the amount of the tax or penalty or reducing the amount of the refund, the Commissioner shall recover the amount due from such person in the manner provided for in Chapter V.

(6) Save as provided in the foregoing sub-sections, and subject to such rules as may be prescribed, any assessment made or order passed under this Act or the rules made thereunder by any person appointed under section 9 or by the Appellate Tribunal may be reviewed by such person or by the Appellate Tribunal, as the case may be, *suo motu* or upon an application made in that behalf.

(7) Before any order is passed under sub-section (6) which is likely to affect any person adversely, such person shall be given a reasonable opportunity of being heard.

Determination of disputed questions.

49. (1) If any question arises, otherwise than in proceedings before a court, or before the Commissioner has commenced assessment or re-assessment of a dealer under section 23 or section 24, whether for the purposes of this Act,—

(a) any person, society, club or association or any firm or any branch or department of any firm is a dealer; or

(b) any particular thing done to any goods amounts to or results in the manufacture of goods within the meaning of that term as given in clause (h) of section 2; or

(c) any transaction is a sale, and if so, the sale price therefor; or

(d) any particular dealer is required to be registered; or

(e) any tax is payable in respect of any particular sale, or if the tax is payable, the rate thereof,

the Commissioner shall, within such period as may be prescribed, make an order determining such question.

Explanation.—For the purposes of this sub-section, the Commissioner shall be deemed to have commenced assessment or reassessment of a dealer under section 23 or section 24, when the dealer is served with any notice by the Commissioner under section 23 or section 24, as the case may be.

(2) The Commissioner may direct that the determination shall not affect the liability of any person under this Act as respects any sale effected prior to the determination.

(3) If any such question arises from any order already passed under this Act or under the Bengal Finance (Sales Tax) Act, 1941, as then in force in Delhi, no such question shall be entertained for determination under this section; but such question may be raised in appeal against, or by way of revision of, such order.

Bengal Act VI of 1941.

CHAPTER IX

OFFENCES AND PENALTIES

50. (1) Whoever— **Offences.**

(a) holds, gives, produces or accepts a declaration under the second proviso to clause (a) of sub-section (2) of section 4, or under the first proviso to section 5, which he knows or has reason to believe to be false; or

(b) carries on business as a dealer without obtaining a certificate of registration as required under sub-section (1) of section 14 or sub-section (1) of section 17; or

(c) not being a registered dealer, represents when purchasing goods that he is a registered dealer; or

(d) being a registered dealer, represents when purchasing any goods or class of goods not covered by his certificate of registration, that such goods or class of goods are covered by such certificate; or

(e) fails to comply with the provisions of sub-section (5) of section 20; or

(f) fails to submit any return as required by sub-section (2) of section 21 by the prescribed date or submits a false return; or

(g) not being a registered dealer, collects any amount by way of tax under this Act or makes any collection of such tax otherwise than in accordance with this Act or the rules made thereunder; or

(h) fails to keep a true account of the value of goods bought or sold by him as required by section 38, or fails when required so to do under that section, to keep any account or record of purchases or sales specified in any notice or notification referred to in that section; or

(i) fails or neglects to issue cash memorandum or bills as required under section 39; or

(j) knowingly maintains or produces incorrect accounts, registers or documents or knowingly furnishes incorrect information; or

(k) neglects to furnish any information required by section 40;

or

(*l*) refuses to comply with any requirements made of him under section 41; or

(*m*) closes his place of business with a view to preventing inspection under section 41; or

(*n*) obstructs or prevents any officer making inspection, search or seizure under section 41, or performing any functions under section 64, as the case may be; or

(*o*) being the owner or person in charge of a goods vehicle fails, neglects or refuses to comply with any of the requirements contained in section 64; or

(*p*) aids or abets any person in the commission of any offence specified in clauses (*a*) to (*o*);

shall be punishable with rigorous imprisonment for a term which may extend to six months or with fine, or with both, and where the offence is a continuing one, with a daily fine not exceeding two hundred rupees during the period of the continuance of the offence:

Provided that no prosecution for an offence under this Act shall be instituted in respect of the same facts in respect of which a penalty has been imposed under sub-section (*6*) of section 20, sub-section (*6*) of section 23, section 55, section 56 or section 57:

Provided further that a person shall not be deemed to have committed an offence under clause (*b*) if he had applied for registration under this Act in accordance with the provisions of sub-section (*2*) of section 14, or sub-section (*2*) of section 17, as the case may be.

(*2*) Notwithstanding anything contained in sub-section (*1*), if any person commits an offence under clause (*a*) or clause (*f*) or clause (*j*) or clause (*l*) or clause (*m*) or clause (*o*) of that sub-section and the court is satisfied that the offence has been committed wilfully, he shall be punishable with rigorous imprisonment for a term which may extend to six months and with fine, and where the offence is a continuing one, with a daily fine not exceeding three hundred rupees during the period of the continuance of the offence.

Offences by companies.

51. (*1*) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(*2*) Notwithstanding anything contained in sub-section (*1*), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of,

or that the commission of the offence is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(*a*) "company" means a body corporate, and includes a firm or other association of individuals; and

(*b*) "director", in relation to a firm, means a partner in the firm.

Cognizance of offences.

52. (*1*) No court shall take cognizance of any offence under this Act or rules made thereunder except with the previous sanction of the Commissioner, and no court inferior to that of a Metropolitan Magistrate shall try any such offence.

2 of 1974.

(*2*) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences punishable under this Act or rules made thereunder shall be cognizable and bailable.

Investigation of offences.

53. (*1*) Subject to such conditions as may be prescribed, the Commissioner may authorise either generally or in respect of a particular case or class of cases any person appointed under sub-section (*2*) of section 9 to assist him to investigate all or any of the offences punishable under this Act.

2 of 1974.

(*2*) Every person so authorised shall, in the conduct of such investigation, exercise the powers conferred by the Code of Criminal Procedure, 1973, upon an officer in charge of a police station for the investigation of a cognizable offence.

Composition of offences.

54. (*1*) Subject to such conditions as may be prescribed, the Commissioner may accept, from any person alleged to have committed an offence under section 50 or under any rules made under this Act, either before or after the commencement of any proceedings against such person in respect of such offence, by way of composition for such offence, a sum not exceeding five thousand rupees or where the offence alleged to have been committed is under any of the clauses (*a*), (*b*), (*c*), (*d*) and (*f*) of that section, not exceeding three times the amount of the tax which would thereby have been avoided, whichever is higher.

(*2*) On payment in full of such sum as may be determined by the Commissioner under sub-section (*1*),—

(*a*) no proceedings shall be commenced against such person as aforesaid; and

(*b*) if any proceedings have already been commenced against such person as aforesaid, such proceedings shall not be further proceeded with.

Imposition of penalty.

55. (*1*) If a dealer fails without reasonable cause to furnish any return by the prescribed date as required under sub-section (*2*) of section 21, or to pay the tax due according to the return as required by

sub-section (3) of that section, the Commissioner may after giving the dealer an opportunity of being heard, direct that the dealer shall pay, by way of penalty, in addition to the amount of tax payable, a sum not exceeding twice that amount or where no tax is payable a sum not exceeding two thousand rupees.

(2) The penalties specified under sub-section (1) may be imposed by the Commissioner notwithstanding the fact that assessment proceedings have not been initiated against the dealer under section 23.

Penalty for concealment of sales or furnishing inaccurate particulars or making false representations.

56. (1) If the Commissioner or any person appointed under sub-section (2) of section 9 to assist him, in the course of any proceedings under this Act, is satisfied that a dealer has concealed the particulars of his sales or has furnished inaccurate particulars of his sales, he may, after giving the dealer a reasonable opportunity of being heard, direct that the dealer shall pay, by way of penalty, in addition to the amount of tax payable, a sum not exceeding two and a half times the amount of tax which would thereby have been avoided.

(2) If a person commits an offence under clause (a) of section 50, the Commissioner or any person appointed under sub-section (2) of section 9 to assist him may, after giving that person a reasonable opportunity of being heard, by order in writing, impose upon such person by way of penalty, a sum not exceeding two and a half times the amount of tax which would thereby have been avoided.

(3) If a person purchasing goods commits an offence under clause (c) or clause (d) of section 50, the authority which granted him, or, as the case may be, is competent to grant him a certificate of registration under this Act, may, after giving him a reasonable opportunity of being heard, by order in writing, impose upon him by way of penalty, a sum not exceeding two and a half times the tax which would have been levied under this Act in respect of the sale to him of the goods, if the offence had not been committed.

Penalty for contravening provisions regarding collection of tax by dealers.

57. If any person acts in contravention of the provisions of section 22, he shall be liable to a penalty not exceeding two and a half times the tax wrongly collected:

Provided that the Commissioner shall not impose such penalty unless the person concerned has been given an opportunity of being heard.

CHAPTER X
MISCELLANEOUS

Service of notice when family is disrupted or firm is dissolved.

58. (1) Where a Hindu undivided family has been partitioned, notices under this Act shall be served on the person who was the last manager of the Hindu family, or if such person cannot be found, then on all adults who were members of the Hindu family, immediately before the partition.

(2) Where a firm or an association of persons is dissolved, notices under this Act may be served on any person who was a partner (not being a minor) of the firm, or member of the association, as the case may be, immediately before its dissolution.

Service of notice in the case of discontinued business.

59. Where an assessment is to be made in respect of business which has been discontinued, a notice under this Act shall be served in the case of a firm or an association of persons on any person who was a member of such firm or association at the time of its discontinuance or in the case of a company on the principal officer thereof.

Appearance before any authority in proceedings.

60. (*1*) Any person, who is entitled or required to attend before any authority in connection with any proceedings under this Act, may attend,—

(*a*) by a person authorised by him in writing in this behalf, being a relative or a person regularly employed by him; or

(*b*) by a legal practitioner or chartered accountant who is not disqualified by or under sub-section (*2*); or

(*c*) by a sales tax practitioner who possesses the prescribed qualifications and is entered in the list which the Commissioner shall maintain in that behalf, and who is not disqualified by or under sub-section (*2*).

(*2*) The Commissioner may, by order in writing and for reasons to be recorded therein, disqualify for such period as is stated in the order from attending before any such authority any legal practitioner, chartered accountant or sales tax practitioner—

(*i*) who has been removed or dismissed from Government service; or

(*ii*) who being a legal practitioner or chartered accountant is found guilty of misconduct in connection with any proceedings under this Act by an authority empowered to take disciplinary action against the members of the profession to which he belongs; or

(*iii*) who being a sales tax practitioner is found guilty of such misconduct by the Commissioner.

(*3*) No order of disqualification shall be made in respect of any particular person unless he has been given a reasonable opportunity of being heard.

(*4*) Any person against whom any order of disqualification is made under this section may, within one month of the date of communication of such order, appeal to the Administrator to have the order cancelled.

(*5*) The order of the Commissioner shall not take effect until one month of the making thereof or when an appeal is preferred, until the appeal is decided.

(*6*) The Commissioner may at any time *suo motu* or on an application made to him in this behalf, revoke any order made against any person under sub-section (*2*) and thereupon such person shall cease to be disqualified.

Change of an incumbent of an office.

61. Whenever in respect of any proceeding under this Act the Commissioner or any person appointed under sub-section (*2*) of section 9 to assist him, ceases to exercise jurisdiction and is succeeded by another who has and exercises jurisdiction, the person so succeeding may continue the proceeding from the stage at which the proceeding was left by his predecessor:

Provided that the dealer concerned may demand that before the proceeding is so continued, the previous proceeding or any part thereof be reopened or that before any order of assessment is passed against him, he be re-heard.

Extension of period of limitation in certain cases.

62. (*1*) An appellate authority may admit an appeal under section 43 after the period of limitation laid down in that section, if the appellant satisfies the appellate authority that he had sufficient cause for not preferring the appeal within such period.

(*2*) In computing the period laid down under sections 43, 45, 46 and 47, the provisions of sections 4 and 12 of the Limitation Act, 1963, shall, so far as may be, apply. 36 of 1963.

(*3*) In computing the period of limitation prescribed by or under any provision of this Act, or the rules made thereunder, other than section 43, 45, 46 or 47, any period during which any proceeding is stayed by an order or injunction of any court shall be excluded.

Returns, etc., to be confidential.

63. (*1*) All particulars contained in any statement made, return furnished or accounts or documents produced in accordance with this Act, or in any record of evidence given in the course of any proceedings under this Act, other than proceedings before a criminal court, shall, save as provided in sub-section (*3*), be treated as confidential, and notwithstanding anything contained in the Indian Evidence Act, 1872, no court shall, save as aforesaid, be entitled to require any servant of the Government to produce before it any such statement, return, account, document or record or any part thereof, or to give evidence before it in respect thereof. 1 of 1872.

(*2*) If, save as provided in sub-section (*3*), any servant of the Government discloses any of the particulars referred to in sub-section (*1*), he shall be punishable with imprisonment which may extend to six months, and shall also be liable to fine.

(*3*) Nothing in this section shall apply to the disclosure—

(*a*) of any of the particulars referred to in sub-section (*1*) for the purposes of investigation or prosecution under this Act or the Indian Penal Code or any other enactment for the time being in force; or 45 of 1860.

(*b*) of such facts to an officer of the Central Government or any State Government as may be necessary for verification of such facts or for the purposes of enabling that Government to levy or realise any tax imposed by it; or

(*c*) of any such particulars where such disclosure is occasioned by the lawful employment under this Act of any process for the service of any notice or the recovery of any demand; or

(*d*) of any such particulars to a civil court in any suit or proceeding to which the Government or any sales tax authority is a party and which relates to any matter arising out of any proceeding under this Act or under any other law for the time being in force authorizing any sales tax authority to exercise any powers thereunder; or

(*e*) of any such particulars by any public servant where the disclosure is occasioned by the lawful exercise by him of his powers under the Indian Stamp Act, 1899, to impound an insufficiently stamped document; or

2 of 1899.

(*f*) of any such particulars to the Reserve Bank of India as are required by that Bank to enable it to compile financial statistics of international investment and balance of payment; or

(*g*) of any such particulars to any officer appointed by the Comptroller and Auditor-General of India for purpose of audit of tax receipts or refunds; or

(*h*) of any such particulars relevant to any inquiry into a charge of misconduct in connection with income-tax proceedings against a legal practitioner or chartered accountant, to the authority empowered to take disciplinary action against members of the profession to which he belongs; or

(*i*) of such particulars to the officers of the Central Government or any State Government for such other purposes, as the Administrator may by general or special order direct.

Setting up of check-posts and barriers.

64. (*1*) The Administrator may, by notification in the Official Gazette, set up check-posts or barriers, or both, at any place in Delhi with a view to preventing evasion of tax and other dues payable under this Act.

(*2*) The owner or person in charge of a goods vehicle shall carry with him a goods vehicle record, a trip sheet or a log book, as the case may be, and a bill of sale or a delivery note containing such particulars as may be prescribed in respect of the goods carried in the goods vehicle and produce the same before any officer in charge of a check-post or barrier or any other officer as may be empowered by the Administrator in this behalf.

(*3*) The owner or person in charge of a goods vehicle entering or leaving Delhi shall also file a declaration containing such particulars in the prescribed form obtainable from the prescribed authority and in such manner as may be prescribed, before the officer in charge of a check-post or barrier or before the other officer empowered as aforesaid:

Provided that where the owner or person in charge of a goods vehicle after filing a declaration at the time of entering Delhi that the goods are meant to be carried to a place outside Delhi, fails, without reasonable cause, to carry such goods outside Delhi within the prescribed period, he shall, in addition to the payment of tax, if any, be liable to a penalty not exceeding two and a half times the tax that would have been payable had the goods been sold inside Delhi or one thousand rupees, whichever is more

(4) At every check-post or barrier, or at any other place when so required by an officer empowered by the Administrator in this behalf, the driver or any other person in charge of a goods vehicle shall stop the vehicle and keep it stationary so long as may be required by the officer in charge of the check-post or barrier or the officer empowered as aforesaid to search the goods vehicle or part thereof, examine the contents therein and inspect all records relating to the goods carried, which are in the possession of such driver or other person in charge, who shall, if so required, give his name and address and the name and address of the owner of the vehicle as well as those of the consignor and consignee of the goods.

(5) If on an examination of the contents in a goods vehicle or the inspection of records relating to the goods carried, any officer empowered by the Administrator in this behalf has reason to believe that the owner or person in charge of such goods vehicle is attempting to evade payment of the tax due under this Act, he may, for reasons to be recorded in writing and after hearing the owner or person in charge of the goods vehicle, detain the goods and the goods so detained shall not be allowed to be transported unless the owner, or his agent or the person in charge of the goods vehicle furnishes to the satisfaction of such officer security in such form and in such manner as may be prescribed for an amount not exceeding one thousand rupees or the amount of tax payable if such goods were sold in Delhi, whichever is more.

(6) Where the security required to be furnished under sub-section (5) is not furnished within the prescribed period such goods shall be disposed of in such manner and subject to such conditions as may be prescribed.

Explanation.—For the purposes of this section, "goods vehicle" shall include a motor vehicle, vessel, boat, animal and any other form of conveyance.

Publication of names, etc., of dealers whose certificates of registration are cancelled.

65. The Commissioner shall, at intervals not exceeding three months, publish in the Official Gazette such particulars as may be prescribed of dealers whose certificates of registration are cancelled under the provisions of this Act.

Exemptions.

66. (1) If the Administrator is of opinion that it is necessary or expedient in the public interest so to do, he may, with the previous approval of the Central Government, exempt, by notification in the Official Gazette, and subject to such conditions, if any, as he may impose, any specified class of sales by any specified class of dealers from payment of the whole or any part of the tax payable under this Act.

(2) If in respect of any sales which are exempt from payment of tax under sub-section (1), a breach of any of the conditions subject to which such exemption was granted, is committed, the dealer responsible for

such breach shall be liable to pay tax in respect of all such sales as if no such exemption had been granted.

Bar of suits in civil courts.

67. No suit shall be brought in any civil court to set aside or modify any assessment made or any order passed under this Act or the rules made thereunder and no prosecution, suit or other proceeding shall lie against the Government or any officer of the Government for anything in good faith done or intended to be done under this Act or the rules made thereunder.

Transfers during pendency of proceedings void.

68. Where, during the pendency of any proceeding under this Act, any person creates a charge on or parts with the possession by way of sale, mortgage, gift or exchange or any other mode of transfer whatsoever, of any of his assets in favour of any other person, such charge or transfer shall be void as against any claim in respect of any tax or any other sum payable by such person as a result of the completion of the said proceedings.

Chapter XXXVI of the Code of Criminal Procedure, 1973, not to apply to certain offences.

69. Nothing in Chapter XXXVI of the Code of Criminal Procedure, 1973, shall apply to— 2 of 1974.

(*i*) any offence punishable under this Act; or

(*ii*) any other offence which under the provisions of that Code, may be tried along with such offence,

and every offence referred to in clause (*i*) or clause (*ii*) may be taken cognizance of by the court having jurisdiction under this Act as if the provisions of that Chapter were not enacted.

Application of the provisions of the Delhi Land Reforms Act, 1954 for purposes of recovery of sales tax recoverable as arrears of land revenue.

70. For the purposes of recovery of any amount recoverable as arrear of land revenue under this Act, the provisions of the Delhi Land Reforms Act, 1954, as to recovery of arrears of land revenue shall, notwithstanding anything contained in that Act or in any other enactment, be deemed to be in force throughout Delhi and the provisions of the Revenue Recovery Act, 1890, shall have effect accordingly. Delhi Act 8 of 1954. 1 of 1890.

Power to make rules.

71. (*1*) The Administrator may make rules for carrying out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(*a*) the further period after the date of expiry of three consecutive years referred to in sub-section (*3*) of section 3 for which liability to pay tax of a dealer shall continue;

(*b*) the particulars to be contained in a declaration under sub-clause (*v*) of clause (*a*) of sub-section (*2*) of section 4, or under

section 5, as the case may be, the form of such declaration, the authority from whom such forms shall be obtainable and the manner in which and the time within which such declaration is to be furnished;

(c) the period of turnover, the manner in which the turnover in relation to sale of any goods under this Act shall be determined and the sales turnover which may be deducted under sub-clause (*vi*) of clause (*a*) of sub-section (2) of section 4;

(*d*) the restrictions and conditions subject to which the Commissioner may delegate his powers under section 10;

(*e*) the authority to whom applications for registration under sections 14, 15, 16 and 17 may be made and the form of such applications and the fees payable in respect thereof;

(*f*) the procedure for and other matters incidental to registration of dealers, the granting of certificates of registration, the period within which such certificates shall be granted and the forms of such certificates;

(*g*) the intervals at which, and the manner in which, the tax under this Act shall be payable under section 21;

(*h*) the returns to be furnished under sub-section (2) of section 21 and dates by which, and the authority to whom, such returns shall be furnished;

(*i*) the procedure to be followed for assessment under section 23;

(*j*) the circumstances in which, and the conditions subject to which, a dealer may be permitted to pay a lump sum by way of composition under section 29 and the manner of determining such sum;

(*k*) the form in which claims for refund or set-off may be preferred, the manner in which such claims for refund shall be verified and the refunds or set-off under this Act shall be allowed;

(*l*) the authority to whom information shall be furnished under section 40;

(*m*) the conditions under which the production of accounts or documents or the furnishing of information may be required under sub-section (1) of section 41;

(*n*) the form and manner in which, and the authority to whom, appeals against assessment may be filed under section 43, the manner in which such appeals shall be verified and the fees payable in respect thereof and the procedure, to be followed by such authority;

(*o*) the form and manner in which applications for revision under section 47 or for review under sub-section (5) of section 48 may be filed and the fee payable in respect thereof;

(*p*) the conditions subject to which the Commissioner may authorise the persons appointed under sub-section (2) of section 9 to assist him to investigate offences under sub-section (1) of section 53;

(*q*) the conditions under which offences may be compounded under section 54;

(*r*) the manner in which, and the time within which, applications shall be made (including fees payable in respect thereof), information furnished, securities given and notices served under this Act;

(*s*) any other matter which is required to be, or may be, prescribed.

(*3*) Any rules made under this Act may provide that a contravention thereof shall be punishable with fine which may extend to five hundred rupees, and in the case of a continuing contravention, with an additional fine which may extend to twenty-five rupees for every day during which such contravention continues after conviction for the first such contravention.

Rules to be laid before Parliament.

72. Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Repeal and savings.

Bengal Act VI of 1941.

73. (*1*) The Bengal Finance (Sales Tax) Act, 1941, as in force in Delhi (hereinafter referred to as the said Act), is hereby repealed:

Provided that such repeal shall not affect the previous operation of the said Act or any right, title, obligation or liability already acquired, accrued or incurred thereunder and subject thereto, anything done or any action taken including any appointment, notification, notice, order, rule, form or certificate in the exercise of any power conferred by or under the said Act shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act, as if this Act were in force on the date on which such thing was done or action was taken, and all arrears of tax and other amounts due at the commencement of this Act may be recovered as if they had accrued under this Act.

Bengal Act VI of 1941.

(*2*) Any application for revision pending immediately before the date on which the Appellate Tribunal is constituted under section 13 (hereafter in this section referred to as the notified date), before the Commissioner under the Bengal Finance (Sales Tax) Act, 1941, as in force in the Union territory of Delhi shall on such date stand transferred to, and be disposed of by the Tribunal:

Provided that no application for revision shall be transferred to the Appellate Tribunal if the petitioner making the application for revision waives his right of appeal to the Tribunal within fifteen days after the notified date, in which case the application for revision shall be disposed of by the Commissioner as if it were an application for revision made under section 47.

(3) Any application for revision, pending immediately before the notified date, before the Commissioner and transferred to the Appellate Tribunal under sub-section (2) shall be disposed of by the Appellate Tribunal as if it were an appeal made to the Tribunal under and in accordance with the provisions of section 43 of this Act.

(4) Where an appeal against an order passed by an officer under this Act lies to the Appellate Tribunal after the notified date, and the period of limitation specified for filing such appeal under this Act has not expired, then, such appeal shall lie to the Tribunal within thirty days of the notified date or within the expiry of the period of limitation specified for filing such appeal, whichever is later.

Removal of difficulties.

74. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by general or special order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for the removal of the difficulty:

Provided that no such order shall be made after the expiration of one year from the commencement of this Act.

(2) Every order made under sub-section (1) shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the order or both Houses agree that the order should not be made, the order shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that order.

Transitional provisions

75. Where a dealer liable to pay tax under the Bengal Finance (Sales Tax) Act, 1941, as in force in Delhi immediately before the commencement of this Act is not liable to pay tax under the provisions of this Act, he shall, notwithstanding the repeal of the first mentioned Act, continue to be liable to pay tax on the sales made by him after such commencement of all goods— Bengal Act VI of 1941.

(i) purchased by him before such commencement,

(ii) manufactured by him before or after such commencement out of raw materials purchased before such commencement.

THE FIRST SCHEDULE

[*See* section 4(1) (a)]

1. Motor vehicles, including chassis of motor vehicles, motor tyres and tubes, accessories, component parts and spare parts of motor vehicles and motor bodies.

2. Motor cycle and motor and cycle combinations, motor scooters, motorettes and tyres and tubes, and accessories, component parts and spare parts of motor cycles, motor scooters and motorettes.

3. Refrigerators, air-conditioning and other cooling appliances and apparatus including room coolers and water coolers and component parts, spare parts and accessories thereof.

4. Wireless reception instruments and apparatus, radios and radio-gramophones, television sets, accumulators, amplifiers and loudspeakers and spare parts, component parts and accessories thereof, and electrical valves.

5. Cinematographic equipment including cameras, projectors and sound recording and reproducing equipment, and spare parts, component parts and accessories required for use therewith, and lenses, films and cinema carbons.

6. Photographic and other cameras and enlargers, lenses, films and plates, paper and other component parts, spare parts and accessories required for use therewith including photographic chemicals and photographs but excluding X-ray apparatus and films, plates, photographic chemicals and other equipment required for use with the X-ray apparatus and component parts, spare parts and accessories thereof.

7. All clocks, time pieces, watches, electrical time switches and mechanical timers and component parts, spare parts and accessories thereof.

8. All arms including rifles, revolvers, pistols and ammunition for the same, and component parts, spare parts and accessories thereof.

9. Cigarette cases and lighters.

10. Dictaphone, tape-recorders and other similar apparatus for recording sound and component parts, spare parts and accessories thereof.

11. Sound transmitting equipment including telephones and loudspeakers and component parts, spare parts and accessories thereof but excluding sound amplifying apparatus carried on the person and adapted for use as a hearing aid.

12. Typewriters, tabulating, calculating, cash registering, indexing, card punching, franking and addressing machines, teleprinters and duplicating machines and component parts, spare parts and accessories thereof.

13. Binoculars, telescopes and opera glasses and component parts, spare parts and accessories thereof.

14. Gramophones, record players, record changers and component parts, spare parts and accessories thereof and records and needles.

15. All electronic and electrical goods other than torches, torch cells and filament lighting bulbs.

16. Table cutlery including knives and forks, but not including spoons.

17. All types of sanitary goods and fittings.

18. (*i*) All goods made of glass but not including plain glass panes, optical lenses, hurricane lantern chimneys, phials, clinical syringes, thermometers, bangles and scientific apparatus and instruments made of glass.

(*ii*) Glazed earthenware.

(*iii*) Chinaware, including crockery.

19. Vacuum flasks of all kinds (including thermoses, thermic jugs, ice buckets or boxes, urns and other domestic receptacles to keep food or beverages hot or cold) and refills thereof.

20. Liquor (foreign liquor and Indian-made foreign liquor)

21. Picnic set sold as a single unit.

22. Iron and steel safes and almirahs.

23. Motor spirit, high speed diesel oil, aviation gasoline, aviation turbine fuel and all other varieties of fuel for motor vehicles and aircrafts.

24. Cosmetics, perfumery and toilet goods including shampoos but not including soap, tooth brush, tooth paste, tooth powder and kumkum.

25. Leather goods excepting footwear, belts and sports articles made of leather.

26. Furniture including iron and steel furniture.

27. Sheets, cushions, pillows, mattresses and other articles made from foam rubber or plastic foam or other synthetic foam.

28. Furs and articles of personal or domestic use made therefrom.

29. Articles and wares made of stainless steel but excluding safety razor blades and surgical instruments or parts of industrial machinery and plant.

30. Perambulators.

31. Plastic, celluloid bakelite goods and goods made of similar other substances but not including such goods of value not exceeding thirty rupees per piece.

32. Fireworks including coloured matches.

33. Lifts whether operated by electricity or hydraulic power.

34. All types of glazed and vitrum tiles, mosaic tiles, laminated sheets like Sun mica, Formica, etc.

THE SECOND SCHEDULE

[*See* section 4(*1*) (*b*)]

1. Coal including coke in all its forms.

2. Cotton as defined in section 14 of the Central Sales Tax Act, 1956 (74 of 1956).

3. Iron and steel as defined in section 14 of the Central Sales Tax Act, 1956 (74 of 1956).

4. Jute as defined in section 14 of the Central Sales Tax Act, 1956 (74 of 1956).

5. Oil seeds as defined in section 14 of the Central Sales Tax Act, 1956 (74 of 1956).

6. Hides and skins, whether in a raw or dressed state.

7. Cotton yarn as defined in section 14 of the Central Sales Tax Act, 1956 (74 of 1956), and cotton thread.

THE THIRD SCHEDULE

(*See* section 7)

1. All cereals and pulses including all forms of rice and their brans and cooked dal.

2. Flour including atta, maida, besan and suji.

3. Chapaties, paranthas, stuffed paranthas, puries, stuffed puries, kulchas, nans and bhaturas and bread (double roti).

4. Meat and fish other than canned, preserved, processed, dried, dehydrated or cooked.

5. Fresh eggs.

6. Vegetables, green or dried (except when sold in sealed containers) and vegetables seeds.

7. Fruits other than dry fruits or canned, preserved, dried or dehydrated fruits.

8. Sugar as defined in the Central Excises and Salt Act, 1944 (1 of 1944).

9. Salt.

10. Fresh milk (whole or separated) including boiled and sugared milk.

11. Edible oils produced in indigenous *kohlu* or *ghani* (without employing electricity or any other power at any stage) when sold by the person owning such indigenous *kohlu* or *ghani* and dealing exclusively in the production of edible oils by such indigenous *kohlu* and *ghani*.

12. Dahi and lassi.

13. All varieties of cotton fabrics, rayon or artificial silk fabrics and woollen fabrics.

Explanation.—The expression "cotton fabrics", "rayon or artiflcial silk fabrics" and "woollen fabrics" shall have the same meanings as are, respectively assigned to them in the Central Excises and Salt Act, 1944 (1 of 1944).

14. Books and periodicals, maps, educational charts, instruments boxes used by students and educational globes and instruments, such as instruments used in mechanical drawing and biology, used by students.

15. Fuel wood and charcoal.

16. School exercise and drawing books.

17. Agricultural implements including chaff cutters and persian wheels or parts thereof and electric motors including monoblock pump sets of 3 to 7½ horse power.

18. Cattle feeds, including fodder and poultry feeds.

19. Electric energy.

20. Fertilizers.

21. Water but not aerated water or mineral water or water sold in bottles or sealed containers.

22. Tobacco as defined under the Central Excises and Salt Act, 1944 (1 of 1944).

23. (*i*) Country made shoes (Juties).	When manufactured—
	(*a*) without the use of power, and
(*ii*) Cane and bamboo handicrafts.	(*b*) at a place other than a factory as defined in the Factories Act, 1948 (63 of 1948) and sold either by the maker himself or by any member of his family or by a co-operative society consisting wholly of the makers of such articles.
(*iii*) Earthenwares made by Kumhars.	

24. Charkha, takli and charkha accessories.

25. Slate, slate pencils, takhties, black ink used for takhties, writing chalks, crayons (excluding colour pencils), foot-rules of the types used in schools and *kalams* (pens used for takhties).

26. Betel leaves including prepared pans.

27. Pesticides for plant protection.

28. Plant protection machines.

29. Ready-made garments of khadi made out of cloth certified as such under the Khaddar (Protection of Name) Act, 1950 (78 of 1950).

30. Condoms.

31. Blood for transfusion that is to say fresh human blood or plasma, liquid or dried.

32. Handspun yarn.

33. *Achar* and *muraba* except when sold in sealed containers.

34. Scientific goods including scientific glass goods, geometrical and drawing goods used in Schools and Colleges for teaching and for use by students.

35. Livestock including poultry.

36. Cotton paddings.

K. K. SUNDARAM,

Secy. to the Govt. of India

PRINTED BY THE GENERAL MANAGER, GOVERNMENT OF INDIA PRESS, MINTO ROAD, NEW DELHI AND PUBLISHED BY THE CONTROLLER OF PUBLICATIONS, DELHI, 1975